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REJOICING OVER RELEASE WHILE DREADING FUTURE

THE captives are free; the bandits are victors and foreigners thoughout China are in constant danger. The return to their homes of the small group of men, who for thirty-eight days suffered the tortures of bandit imprisonment in the mountains of Shantung brings joy to the hearts of their friends and loved ones as well as relief to the interested people everywhere, who saw in the prolonged illegal detention with its accompanying dangers and indignities a challenge to the foreign powers to take drastic steps to give their nationals the protection which the Chinese local and central governments were unable to provide. The liberation of these captives relieves the tension, for the time being; the crisis has passed, for the present.

THE community really fears to treat itself to a healthy case of rejoicing because of the firm conviction that the crisis which has just passed is not the final one, that the conditions under which this crisis was passed pave the way for far more serious affairs, the coming of which is only a matter of time. Because of the inability of the Chinese government to deal with the bandit situation it was forced to yield to the outlaws' demands and thereby invite ambitious bandits in other places to go and do likewise. Banditry has been given a strong impetus through the realization of the bandit armies that they are equal to, if not superior to, any authority in the land.

WITH vicious storm clouds gathering, with the barometer falling and with clouds of dust in the distance to announce the approach of cyclonic winds, the person who does not prepare for a storm deserves the full force of the criticism that he naturally would get. The storm clouds are gathering in China now, and those in the storm area would be extremely unwise to fail to prepare for any eventualities. This is no occasion to attempt in any way or in any degree to minimize the importance of the liberation of this group of foreigners. On the contrary, the importance of this occasion should be stressed, and used to give a comparative idea of what in the course of most probable events is to be expected. These foreigners, who have just been released, feel most keenly the imperative need of preparedness to save others, possibly many others, from a similar fate, or worse.

THE earnest hope, expressed by the captives a number of times, even when their hardships were the most trying, was that this might mark the turning point for the better. The course of events to date has been such as to make one weary in hoping that it may mean such, because the significance of the affair thus far has been in the wrong direction. If all concerned simply fold their hands and sit blissfully unmindful of the dangers around them, indifferent to the challenge to them, the Lincheng episode truly will be a mere incident, as some already have characterized it. If on the other hand we start from here, if we formulate a program which takes into account the fact that what has just happened came as result of a national state of affairs, there still is a chance to save the day. May the powers consider the China problem as they never have considered it before; may they realize the significance to the world of letting a country the home of four hundred million people drift further into disintegration and chaos, as outlaws and corrupt militerarists seize the powers which functionaries of a representative government no longer can exercise.

TSAOCHUANG is not the only place where recent occurrences remind us that there is no authority in the land adequate to meet a real emergency. Peking, the capital, has been the scene of a local and a national demonstration made possible wholly through the lack of a responsible government.

CENSORSHIP AS AGENCY TO MISLEAD THE PUBLIC

CENSORSHIP has been used for political purposes in connection with banditry press dispatches. Numerous reports from Tsaochuang indicate that the correspondents there for the purpose of informing the reading public of progress toward effecting the release of foreign captives have worked against odds, that they were handicapped.

A SUPERABUNDANCE of politics accounts for a large part of the trouble, delay and discouragement in connection with the negotiations. This same pestiferous politics has exerted itself to attempt to safeguard the politicians seeking to advance and glorify themselves by appropriating the credit for everything done at Tsaochuang. The politicians who flocked to the point of contact between the bandit organizations and the outside world wished nothing to go out that would harm them, and they saw in censorship one way of accomplishing this end. Therefore in the two-by-four telegraph office of Tsaochuang, which was overloaded with work, the powers that be established a censor's department.

TO credit those responsible for this political censorship with any very great degree of success would be flattery for them. To say that the public has been kept in the dark to any very great degree would be equivalent to bringing an indictment against the correspondents, because newspapermen who could not meet a situation such as that brought about by this kind of censorship hardly would be worthy of the trust imposed in them by their papers. There were cases in which messages were delayed, and sometimes it was necessary to resort to agencies other than the telegraph to get the news out, but the public has received, or when the opportune time has arrived will receive, the news.

THE futility of such efforts within itself condemns the act. The Chinese officials who would attempt such control of the press should understand they only are hurting their own selfish cause thereby. With a precious few exceptions, the correspondents are going to get the news out when it is sufficiently important to be worth the effort. Other governments that have attempted to muzzle the press for a corrupt purpose, almost without exception, have regretted their efforts in this connection. It is easy enough to impose restrictions that will trouble the representatives of the press but it is another thing to impose restrictions that really will stop them, and vain attempts to stop them are costly to those responsible for the same.

BOYCOTT RIOTS IN CHANGSHA

REPORTS of the anti-Japanese boycott in Hunan province show that that movement has recently taken a serious turn. Twice within the past few weeks riotous collisions between the boycotters and Japanese nationals have occurred in Changsha—a river port of commercial distinction nowadays, but long noted as a stronghold of anti-foreign conservatism.

FOR more than two months the boycott movement against the use of Japanese goods in this country has been making steady headway. This is due, of course, to the refusal of Japan to take any action toward meeting the demands of the Peking government in reference to the Manchurian question. Various reports are at hand concerning the strength of the movement and its deleterious effects upon Japanese trade. The boycott has long been a favorite weapon in the hands of the Chinese. It has appealed peculiarly to a people who tend toward passive rather than active resistance for the settlement of difficult questions of an international nature. It is a form of retaliation recognized by international law as a legitimate weapon under certain circumstances. A good deal can be said in its favor especially when it is used as a means to attain justice without recourse to war. The Chinese have used it more or less wisely several times against Western nations as well as Japan. Into a discussion of the wisdom or the justice of the attitude which has led to the present movement we do not propose to enter at this time. But a word of warning may not come in amiss.

A FEW weeks ago the report became current—and we have not seen it denied that a mob of boycotters including students boarded a Japanese vessel at Changsha which was preparing to land goods in that city. A riot followed in which physical injuries were sustained by both Chinese and Japanese participants. Now comes the report of further rioting which has resulted in the wounding of Japanese marines, the shooting to death of several Chinese, attack upon and destruction of Japanese houses and shops, and the rescue with difficulty by marines of the Japanese consular staff which has been forced to take refuge on a Japanese gunboat.

GREAT indignation has been aroused among both Chinese and Japanese. This is to be expected. The Chinese press in part claims to see in the affair another scheme on the part of the neighboring power for humiliation of China which may serve to carry out the deep laid plans of the

former. This may or may not be so. If correct in their interpretation of events the Chinese editors would do well to warn their compatriots not to fall into a trap—which they certainly have been in danger of doing—if trap there be.

NO one can claim that Japan has the right to force its goods upon unwilling Chinese buyers. But neither can it be asserted with any degree of truth or justice that the Chinese of any class whether merchants, students, soldiers, or bandits have a right to board a Japanese mercantile ship in Chinese waters, or to attack it with sticks and stones while it lies at the wharf. An attempt to discourage the landing of Japanese goods on Chinese soil and to carry on the boycott by force cannot but bring about more harm than good. Magnificent gestures are not of much avail in such cases. There's no use in appealing to Caesar unless one is a Roman citizen—or to force unless there is strength to back up the appeal. China's friends sympathize with her in her difficulties, and a good deal of admiration has been aroused by the patriotism evinced in the Student Movement. But such incidents as those in Changsha are likely to stir up neither sympathy nor admiration. Justice can not be attained by injustice, nor can law and order be brought about by rioting and the breaking of law.

Background Factors of Banditry

BY JAMES DONALDSON

TO such a white heat has interest been aroused during the past month by the Lincheng bandit outrage that comparatively little consideration seems to have been paid to the factors which have contributed to the whole bandit horror in this stricken land. This episode is but the latest and most picturesque of a long series of attacks upon and kidnappings of foreigners and Chinese going back over a period of years. China's history describes many periods in which banditry constituted a leading and prosperous profession. One of the methods by which Heaven has signified its withdrawal of the mandate of power from a ruling family has been the development of the spirit of rebellion and outlawry throughout the country. There is then nothing unique or even unusual in the outbreaks of recent years and months.

Paradoxical as it may appear the Chinese as a people are at once the most docile and the most difficult to rule on the face of the earth. Often criticised for cowardice they have as often distinguished themselves by their bravery and endurance as soldiers—witness the work of Frederick Townsend Ward and "Chinese" Gordon in the organization and discipline of the Ever Victorious Army. Probably no people have ever made use of the doctrine of passive resistance to such a degree as the Chinese. Nevertheless they are quick to sense a limit and to know when the game is up. In China the respect paid to the Emperor's order in the most distant part of the empire was equalled only by that paid to him in person. But this held only as long as the Emperor was worthy of reverence and obedience. At other times the attitude of an official was expressed in a common saying which, freely translated, runs: "His Majesty is in Peking (i.e. far way) I shall do as I please."

What is noteworthy therefore in recent years is not that there are bandit movements throughout large portions of the country but that the attacks on *foreigners* have been so many and so frequent. Slowly but none the less surely through the nineteenth century it was borne in upon both Manchus and Chinese that the Occidentals are fully the equal of the Orientals in civilization and more than their equal in power. It is not surprising when cultural and geographical factors are taken into consideration that the lesson was a difficult one to teach and to learn. That the fundamental basis of trouble between the Chinese and the Europeans was one of equality was not at first realized by either side. Nor is it universally understood even to the present. The governing classes of both east and west gradually came to a realization that such was the case, however, after several wars had been almost needlessly fought. By force rather than diplomacy both Europeans and Americans came to be subject to the laws of their respective countries. Essential equality between peoples was brought about largely by punishment sure and swift of those Chinese who mistreated foreign nationals in China, or of the foreigners who mistreated Chinese. All doubt as to the equality of Westerners with Celestials was laid at rest by the incidents of 1900-1901.

What then is the significance of the attacks upon foreigners in recent years? Sad it is to relate, but a fact that had best be recognized at once by the foreigners in the Orient and by their governments, that the prestige of the West has been considerably lowered during the past two decades throughout large sections of Asia. Power begets enmity as well as envy and fear no matter whether it is used for good or for ill. When strength and power weaken no one is so low as to do them reverence because of their past. Gradually since the Boxer period one event after another has seemed to indicate an eclipse of the glory of the West.

In 1902 Great Britain, for reasons which seemed good to her and which need not be reviewed here, allied herself with an Oriental State—an Alliance several times renewed and only lately severed, Two years after this Japan fought Russia to a draw. That the latter was in the throes of an internal revolution at that time, was taken by surprise, and forced to fight far from its base of supplies—all these are forgotten in the apparent victory of East over West. Nine years later internecine warfare broke out between the lords of Western powers. Temporary expedience overcame far-sighted wisdom, and the Chinese were encouraged by part of Europe to look with scorn upon the peoples of a large part of that continent. Three years later witnessed the long-threatened overthrow of the Russian autocracy which in its day had caused so great losses to China. In 1917 China declared war on the Central Powers. As a result of this and of the revolution within Russia the prestige of Austria, Germany, and Russia has become practically nil. Their nationals have lost their extraterritorial and considerable property rights in China.

Another thing to be borne in mind is that many thousands of Chinese laborers were despatched to France, England, and Belgium during the war period. These brought back reports many of which, whether truthful or not, have not served to enhance the reputation of Europe and its civilization. It is the old case of familiarity breeding contempt. A contempt made greater by the renewed discovery that the West is not at units with itself. It is said that many of these returned laborers have become bandits owing to lack of employment; this would not be surprising, and if true it may be seriously doubted whether they would stand in any particular awe of attacking, robbing, and kidnapping foreigners.

That Europe is not permanently weakened, and that America has but entered upon its heritage may be firmly believed and unhesitatingly proclaimed. But this is not enough. Although the West must treat the East with justice it must assert its strength and demonstrate its power by action if, and whenever, it is necessary. An Englishman has been murdered by the bandits, gentle-women have been mistreated, Italian and American nationals—including two army officers of the latter—have been kept prisoners in unhealthy dens far in the mountains for more than a month. All this has taken place—irony of ironies—in the province which so recently was returned to China through the good offices of the English and American governments. And what have the governments of the United States, England, and Italy done in defense of their honor, and for the protection of their suffering nationals? And student of international relations, and more especially of China's relations with the West, must conclude that in the light of past experience such a state of affairs cannot last: the Western Powers must protect their nationals and preclude the possibility of a recurrence of such incidents as have become all too common during the past few years, or expect worse things than the Lincheng affair to occur.

Since the death of Yuan Shih-kai—a strong and able ruler despite his undeniable ambition and consequent errors—China has had no hand at the wheel, no pilot at the helm. A country, or an engine, can run for a time on its own momentum without the driver, but either will soon come to a stop—a stop which is likely to be full of grief. The bandits are doing utmost to answer the oft-repeated question "How long can China last under the present-day conditions?" The quicker the European and the American governments realize the true conditions in China and the perilous situation of their nationals in eastern Asia the sooner will one large part of the world be righted. And China herself and her suffering people will return to the path of prosperity which they have trod in the past, and which they are well qualified by nature to travel again.

The Chinese in the Philippine Islands

BY H. F. MACNAIR

THE origin of Chinese relations with the Philippine Islands is lost in the mists of antiquity and the chaos of a largely unscientific historiography. Exact knowledge of the early relations of the Chinese and the Filipinos will probably never be obtained. The Rev. Dr. Baron de Stuard states that Chinese merchants went to the land of Ma-hi in the reign of the emperor Ling Wang, of the Chow dynasty, who reigned B. C. 571-545. Ma-hi is held to be the Chinese name for the Sanskrit Ma-yi-ya—the name given to the middle part (including Manila) of what was called Lao-shun (later Lo-zon, Luzon, and Lusun) in the time of HanWu-ti. Baron de Stuard states that from the time of Han Wu-ti (140-86 B. C.) Chinese traders visited Lao-shun and Ma-hi frequently, and that in time the Chinese came to form the bulk of the progressive colonists of that land. Baron de Stuard does not give his sources for these statements. however, and their accuracy is open to doubt.

Professor Craig of the University of the Philippines in his "Particulars of the Philippines' Pre-Spanish Past" has a reference to Chinese knowledge of the Islands in the third century of the Christian era, and also to the period of the T'ang dynasty.

Regardless of the correctness of these supposed relations of an early period there is no doubt that the Chinese traded with the Philippines in the time of the Mongol (Yuan) dynasty, 1280-1367 A. D. Reference is made to this in the writings of Chau Ju-kua who wrote in the year 1271; the latter belonged to the imperial family of the Sung Dynasty, and was at one time Superintendent of Customs at Ch'uan-chow in Fukien. The Chinese of this period are reported to have taken porcelains, trade gold, lead, glass beads of various colors, iron censers and iron needles. Native products were given in exchange, among them yellow wax, pearls, cotton, tortoise shell, betel nuts, and yuta cloth. The relations between the Philippines and China in the Ming period were important both commercially and politically. The Spanish quickly learned of the connection with China after their arrival in the sixteenth century; on his arrival in Manila in 1571, Legaspi found one hundred and fifty Chinese residing in the town.

In the year 1574 the Spanish had an unexpected experience with some Celestials who were not peaceful traders and who were not representative of the Chinese people or their Government. The pirate Li-ma-hon with a fleet of sixty-two war junks, and a force of over four thousand men arrived in Manila Bay on November 29th. Defeated in two attacks upon the city, Li-ma-hon was forced to retire to Pangasinan where he tried to found a colony. This attempt was frustrated by the attacks of the Spanish Captain Salcedo. Li-ma-hon himself escaped with part of his force, the remainder fled to the mountains and became, according to tradition, the ancestors of part of the modern Igorotes whose oblique eyes show their ethnic affinity to the Chinese to this day.

In 1580 the Spanish government instituted "The Market Place of San Fernando," a station on shore for Chinese traders and their goods. A little later than this Governor Gonzalo Ronquillo built a special quarter for them called the "Parian", the object being to encourage and protect the Chinese traders and at the same time to keep them from scattering around too freely and becoming a source of danger. In 1588 there were some ten thousand Chinese in Manila. In the early days Spanish officials and writers were more just in their attitude than they afterward became. Antonio de Morga and Juan de la Concepcion at the close of the 16th and the opening of the 17th centuries wrote of the absolute dependence of the colony on the Chinese trade and commerce. Chinese artisans were frankly recognized as indispensable. By 1638 it was estimated that the number of Chinese in the colony was 33,000.

In the Philippines in the early days and perhaps to a lesser degree in the Dutch East Indies the Chinese attained what might almost be called a limited form of extraterritoriality. The privilege of governing themselves and settling their own quarrels was practically assured them. The government of the Parian was administered by an *Alcalde mayor*. Cases between the Chinese themselves, that is where no Spanish or Filipinos were concerned, were left largely to a Chinese official. This was a state of affairs not unlike that among the foreigners in China at a later time, and shows in an interesting manner that extraterritoriality in its origin was not considered a derogation of sovereignty. Extraterritoriality becomes a source of humiliation only when sovereignty becomes territorial.

The rapid increase of the Chinese both in number and commercial power aroused the fear and jealousy of native and Spaniard; measures of restriction were soon taken. "Volumes could be filled," says Mr. Juan Mencarini, in his valuable study *The Philippine Labor Question*, "with copies of more or less wise Royal decrees and rules concerning immigration to the Philippines. The principal ones were issued in 1679,1776,1804,1834, and 1851, in which the Chinaman was supposed only to trade in the Parian at Manila, and was allowed special privileges if he devoted his time to agriculture." A great proportion of the goods shipped from the islands to Mexico on the famous Manila Galleon, or "China Ship" came from China. In exchange for her goods China drained the islands of great quantities of gold and silver, much as the English later drained her of gold and silver in exchange for opium. In both cases the country which gave up its precious metals did so with loud wails and lamentations, and in each case bloodshed was the result. Philip II decreed that an export duty should be laid on all goods shipped from the islands to Mexico, but this was of little moment: the Spanish in the Philippines continued to play the part of a practically non-absorbent channel for the gold and silver of Mexico to flow through to China in exchange for China's silks and other luxuries. Many Chinese products, of course, were sent to Spain by the other route. Soon the oppression of the Chinese by the Spaniards began: in 1596 some twelve thousand were expelled. Reference has been made in earlier papers of this series to the various massacres of the Chinese in the islands in the years 1603,1639,1662, and 1820. There was much that was blameworthy on both sides; it is not surprising that blood was shed; what was surprising was the complacency with which the Imperial government of the homeland of the traders permitted its peoples to be put to death practically without a protest.[1]

There are many interesting and notable results of Chinese intercourse with, and settlement in the Philippines. The manufactured goods introduced by the Chinese supplanted the inferior ones of the natives. The latter being indolent were not encouraged to improve their own manufactures. One of the most valued of the early importations was the pottery jars, some for burial urns and others for household use. Many of the former are held by Dr. Berthold Laufer to be of Sung dynasty (960-1279 A. D.) origin, while those for household use are of the Ming (1368-1643) period. These ancient jars constitute the wealth of certain individuals as is the case with similar utensils in Borneo. Many of the jars are of fine workmanship.

It has often been remarked that to the Chinese belongs the credit of introducing sugar manufacture into the Philippines. In some section the implements in use bear Chinese names. Sugar mills with vertical stone crushers and iron boiling pans were built by the Chinese. The Filipinos were taught also the working of wrought iron, the manufacture of copper, also carpentry, weaving, and many other arts and industries.

Despite their contribution to the civilization of the natives the latter as well as their Spanish masters generally looked upon the Chinese with that same mixture of fear and scorn which characterised the attitude of the Chinese at home in their dealings with Europeans in the nineteenth century. The Filipinos hated the Chinese who were their intellectual masters, and aped the Spanish in affecting unlimited contempt for the yellow men who held the whip hand economically. The Spanish in the later days generally looked upon the Chinese as a menace to Church and State. Down to the present time the Chinese have had no social position in the eyes of the Spaniards and Filipinos. Prior to the American regime the Chinese, as Foreman says, "was drilled past docility—in six months he became even fawning, cringing, and servile, until goaded into open rebellion. Whatever position he might attain to he was never addressed (as in the British Colonies) as 'Mr.' or 'Esquire', or the equivalent, Senor D., but always 'Chinaman—' (Chino—')"

Their social position was somewhat changed after the American occupation. Many Chinese changed to European clothes. They have come to mix more with the white population and are received more nearly on a footing of social equality. But as stated above so far as the Filipino is concerned their position is practically unchanged. This is frankly recognized and spoken of even by wealthy Chinese merchants at present. They know what their race means to the islands, and also that the most active and progressive of the modern Filipinos have Chinese blood in their veins.

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1. China's real protest came years later in the way in which she treated the foreigners who came to trade at Canton.—But here the ingredients of the experimental mixture, and the reaction, were quite different.

They smile rather cynically when they tell an American that Senor Blank speaks loudly of the natural ability of the Filipinos—but scorns to remember that he himself is a half or a quarter Chinese. Is it, perhaps, an exemplification of the law of compensation which runs through the universe that the Chinese who have with such assumed superiority of times despitefully treated the "foreign barbarians" are themselves dealt with in similar fashion in so many countries to which they have gone? Whether this be so or not it is indeed unfortunate that both aspects of the case should be what they have.

The present Chinese population of the Philippines is variously estimated as being 41,000 to 70,000. It is probably around 55,000, this being the estimate of the Rev. H. E. Studley of Manila, a worker among them of many years' experience. They are almost exclusively from the provinces of Fukien and Kwangtung. Probably 85% are from the former province.

Their economic position is powerful. It is estimated from government statistics based on the collection of an internal revenue tax that 90% of the retail business of the islands is in Chinese hands. A large part of the wholesale trade is controlled by them also. In a list of the principal importers and exporters of Zamboanga, published some four years ago, of the twenty-three importers named twelve were Chinese; of the eighteen exporters listed nine were Chinese. What proportion of the stock in the other companies was held by Chinese it is impossible to say.

The Chinese furnish the middlemen without whom the European and American merchants could do little business. On the Escolta, the main business street of Manila, one does not see many Filipino shops; they are Chinese and American, with a large proportion of the former. The Chinese shops are of all sizes from one small room opening on to the street to the department store type. Everything to eat and wear is stocked by the enterprising shopkeepers. Not only is a great share of the domestic but a large share of the foreign trade of the islands is under Chinese control.

Many wealthy Chinese deal chiefly in cocoa, tobacco, rice, hemp, sugar, wine, copra, lumber, and dry goods. Many of the inter-island steamers are owned by them. A large part of the commodities, especially hemp and copra, which are shipped by English and American firms have passed through the hands of Chinese merchants and speculators. Chinese merchants predominate in the Visayas and the Bicol Peninsula. A large part of the trade in Nueva Ecija, the Ilocano provinces, and the Cagayan valley is controlled by them as well.

One of the great problems in the islands has been the procuring of labor for the large and growing number of plantations. The Filipinos have not been sufficient for several reasons. Shortly after the American occupation there was much discussion as to the importation of Chinese laborers. This was a subject which interested the Chinese Government as well as the residents in the Philippines. On February 3, 1899, Minister Wu Ting-fang addressed a note to Secretary of State Hay requesting information as to the probable policy of the American Government in reference to Chinese immigration into the islands. This he did by order of his own Government. The Chinese Minister argued that the Chinese-American Treaties of 1880 and 1894 could not be held to apply to the Islands. "If a policy of exclusion is adopted there," continued Mr. Wu with delightful irony, "should the United States in its wisdom extend the practice of territorial expansion, for instance to Siam and Annam, the Chinese might also be excluded from those countries."

On September 26, 1898, General Otis had issued a military order by which American Chinese Exclusion laws were applied to the Philippines. The answer of Secretary Hay of February 6, 1899, gave the impression to Minister Wu that no steps in reference to Chinese immigration would be taken until the Philippine Commission had made its report. The Chinese Consul-General at Manila protested to Mr. Wu against the military order for exclusion of his countrymen. The latter protested to the Department of State but without effect. In the middle of November 1899 the Chinese Consul-General in Manila again protested that all Chinese "whether laborers or merchants" seeking to enter Manila were being subjected to investigation, that former residents alone were being allowed to land, and—perhaps worst of all—the Chinese leaving port were required to be photographed in order to obtain return permits. The Chinese Minister at Washington again protested and this time received from Secretary Hay a communication saying that the attention of the General in Manila had been instructed not to allow any violation of the Chinese-American treaty.

To the present the Administration in Washington has lent a willing ear to the messages of the Filipinos who have protested against free immigration of Chinese into their islands. It has been held apparently that it is not absolutely necessary that the Philippines should be economically developed at too rapid a rate—a point of view which the imperially and commercially minded nations of the West seem often to have overlooked, or not considered worthy of attention. In 1902 the Washington Government saw fit to apply exclusion laws to the Philippines. The Autonomy Act for the islands of August 29, 1916, Section 10 reads in part as follows: . . .nor shall any act of the Philippine Legislature affecting immigration. . .become a law until it has been approved by the President of the United States: *Provided further*, That the President shall approve or disapprove any act mentioned in the foregoing proviso within six months from and after its enactment and submission for his approval, and if not disapproved within such time it shall become a law the same as if it had been specifically approved."

The Exclusion Act of 1902 required the Chinese already in the islands to obtain within a year a certificate of residence or else to be deported. They are permitted to move freely from one island to another but cannot go from the islands to any other part of the American possessions or to the United States itself without arrangements similar to those necessary for leaving China for America. Further regulations were made by the insular government by act of March 27, 1903. Chinese may leave the islands and return within one year, but must obtain a certificate of departure and be photographed. To re-enter they must obtain a certificate of departure at the place of embarkation for the Philippines. All Chinese must be registered. The rules are rigidly carried out but so long as the islands continue to have as large a coast line as at present—and remain so conveniently close to Formosa, it is unlikely that this race will ever die out in the islands. Indeed, no true friend of the country could hope for such a condition.

The attention now devoted to the subject of developing the rubber industry in the Philippine Islands lends renewed interest to the question of introduction of Chinese laborers for plantation use. As far back as 1638 Chinese had attempted to enter upon agricultural pursuits around Calamba and along the Laguna shore but "the selfishness and jealousy of the natives made their permanence impossible," says Mr. J. Foreman, who continues: "In 1850 the Chinese were invited to take up agriculture but the rancorous feeling of the natives forced them to abandon the idea, and to seek greater security in the towns . . . To compel them to take up agriculture was out of the question in a Colony where there was so little guarantee for their personal safety. There is absolutely no harmony of thought, purpose, or habit between the Philippine Malay native and the Mongol race, and the consequence of Chinese coolies working on plantations without ample protection would be frequent assassinations and open affray." But aside from this it must be borne in mind that the Chinese who go abroad are essentially a commercially minded people. They generally prefer the element of chance involved in business with a high presumption of good returns to the slower certainty of a fixed wage for plantation labor. Mr. Juan Mencarini, a Spanish authority quoted previously agrees with the remarks of Foreman: "It is not difficult to understand the Chinese preference for city work to agricultural labor. In the fields he was constantly harassed by his enemy the native, who naturally envied the prosperity brought by his superior thrift and mercantile ability . . . . The consequence is, that of the 60,000 Chinese now residing in the Philippines there are few field laborers. Those who are not traders are employed in or near the cities." [3]

In concluding the subject of Filipino dislike of the Chinese it is interesting to read Mr. Foreman's summary of the question. It is typical of other students of the question of racial discrimination especially as refers to the Chinese question. "The chief accusation levelled against the Chinaman is, that he comes as an adventurer and makes money, which he carries away, without leaving any trace of civilization behind him. The Chinese immigrant is of the lowest class. Is not the dream of the European adventurer, of the same or better class, to make his pile of dollars and be off to the land of his birth? If he spends more money in the Colony than the Chinaman does, it is because he lacks the Chinaman's self-abnegation and thriftiness. Is the kind of civilization taught in the colonies by low-class European settlers superior?" Again, as has been pointed out by various writers, if the Chinese does go to a place and hoard his savings in order to return to his fatherland does not the country in which he has worked at a low rate of wages profit

2. Cf. H. H. Miller Economic Conditions in the Philippines.

3. The Philippine Labor Question, Imperial Maritime Customs Service. Hankow, 1901.

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by his work? He may take away his savings—but he does not remove the results of his labor. Most especially should this be remembered when the problem of the Chinese in the Philippines is considered.

In Manila there is a Chinese Chamber of Commerce which is of sufficient importance to have been consulted by the American officials in reference to an Internal Revenue Bill. In January of 1920, the first Chinese monthly magazine, the *Huachiao Commercial News* made its appearance under the auspices of this Chamber. In 1904 a Chinese Club-House was opened and a reception given to the Governor-General and other leaders of Manila society. There are also a Chinese Educational Association, a benevolent society, a Chunghwa guild, a Cantonese guild, the Che Kung Dong, and several Chinese libraries. There are hospitals for the Chinese, and special playgrounds in various places. For the younger children there is in Manila an Anglo-Chinese School the teachers in which are Chinese. The excellent government schools are open to Chinese also, as is the fine Normal School, and the University of the Philippines—to the last named several students have gone from China.

In connection with the hard-fought case in which the constitutionality of a law passed by the Filipino legislature making it illegal for a shopkeeper to keep his books in a language other than English, Spanish, or a Filipino dialect is being tested it is interesting to note that this is not the first attempt of this nature. According to Feodor Jagor, a German traveller in the Philippines in the latter half of the nineteenth century, " the Chinese shopkeepers were annually taxed $60 for permission to send their goods to the weekly market; this in addition to a tax of from $12 to $100 on their occupations; and at the same time they were commanded to keep their books in Spanish (English Consular Report, 1869). These requirements were put into effect late in 1867. [4].

The present law which is being tested before the supreme court of the Islands was passed some two years or so ago and if declared constitutional will result in driving out of business a considerable number of Chinese small shopkeepers who are themselves unable to keep books in a language other than their own, and equally unable to afford a bookkeeper who could meet the requirements. It is widely felt that if the Filipino courts uphold this piece of legislation the American Congress which is empowered to intervene should wield its power to avoid abuse of power on the part of the Filipinos. Discriminatory legislation should certainly not be encouraged in a people who are at the entrance only of the path leading toward self-government. Enough has been said in this account of the long-standing relations between the Chinese and the Filipinos, and of the economic position of the former in the Philippine Islands to indicate clearly the need for a sympathetic handling of the immigration question and of other questions relating to the Chinse in these neighboring islands.

4. Travels in the Philippines, *in The Former Philippines thru Foreign Eyes*, Edited by A. Craig (Manila, 1916): 334-335.

The Soviet Protest

BY JOHN A. COOK

IT was the 30th of June in 1918, when the Czechs, in overthrowing the newly established Soviet power in Vladivostock; the first real joint and overt action on the part of the Allied governments with respect to Siberian Intervention, killed a few Bolsheviki who defended themselves in the Stab Kreposti or premises of the Military Fortress Staff, situated exactly opposite the railroad station.

This act was immediately retaliated by the Russian population in Vladivostock on the 4th of July by a mass demonstration in which thousands of workmen and others, social democrats, etc., participated. The demonstration marched through the town to the small square in front of the railway station, where speeches were delivered by prominent Bolsheviks who, in denouncing the Allied governments as traitors, repeatedly addressed themselves in the direction of the building opposite the station in which the British Consulate is situated and from the windows of which a group of foreign representatives watched the proceedings. The denunciations hurled by the orators against the Allied governments at that time were ridiculed by all the foreign representalives who sneeringly said something about big words on empty stomachs. However, the subsequent events that have occurred since then, intervention, civil strife etc., have decidedly proved that threats emanating from empty stomachs, especially from those of revolutionists, are capable of accomplishing much greater deeds than from any other kind of stomach. This factor should never be lost sight of.

Since then, many similar demonstrations have taken place in Russia, but the singular demonstrations in Chita on the 13th and 15th of May, surpass them all and were very significant for they serve once more as the handwriting upon the wall.

The first of these demonstrations was of an exclusively military character,—held on Liberty Square in Chita, where speeches were delivered by the Commander Uboreivitch of the Fifth Soviet Army Corps and other prominent Soviet leaders who raised their voices loud in condemnation of Vorovski's murderers. The plural is used in this instance for the simple reason that the various orators accused the very same offenders as their brother Bolsheviki did exactly five years ago in Vladivostock, i. e. the Allied governments.

The revolutionary spirit still exists in Russia and like big words on empty stomachs is a characteristic in life that must be reckoned with and acknowledged for both serve as the warning posts or lighthouses indicating the imminent danger looming ahead. While Russia is not altogether starving to the degree she did some two or three years ago, still, it cannot be said that her people at present are well fed, so naturally the revolutionary spirit of the Slav, fed by events in Europe, bursts forth into demonstrations all over the country and thus keeps alive the militaristic sentiment of the nation. In passing, it can be asserted that should European complications ever ripen into open hostilities, the Russian population will be driven to starvation because wheat will most certainly be found by requisition and other methods to feed the army as the army is the bed rock upon which Communism is built. It is fatuous to imagine that the Communistic sting can be taken out of the Russian army by removing the Jewish commanders that serve in it because for every Jewish commander who will be removed there are a dozen Communists ready to occupy their places.

Europe would do well not to play too much on the religious sentiment at the present moment when the revolutionary fire, stirred by years of strife, has not yet even reached the smoldering stage. Jewish pogroms are a greater blot on modern civilization and Christianity in particular than was the recent great war.

The other mass demonstration, on the 15th instant, was composed of the civil population of the town and numbered roughly fifteen thousand persons including all categories and professions ranging from bankers, lawyers, and advocates to

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the ordinary workman. In fact every civil denomination was represented. This demonstration was a protest against the English Note and the inscriptions upon the various banners displayed by the demonstrators left little doubt as to the frame of mind of the Russian population and expressed solidarity, such as:-"Russia is not the Rhur"; "War, declared upon us by the Entente is the forerunner of the social revolution of the world"; "We are ready for England's insolent challenge"; "Russia defends herself better than Germany"; "The solidarity of international labour is the victory over capital"; "The army is prepared"; etc; etc. The demonstration wended its way to Liberty Square, where speeches were delivered by prominent political leaders and public representatives. Throughout all the speeches there was a unanimous declaration to defend the motherland to the last man against the country that has dared to insult the honor, interests and independence of the first Proletarian Republic in the world. A resolution to this effect was passed and representatives of the women's organizations declared they were prepared to sacrifice their lives, as they had done in the past, to defend their rights and equality wrenched from their former oppressors. Every demonstration in Russia which is the result of some act perpetrated by the Entente against Russia has only the effect of widening the gulf that already exists between Russia and her enemies and at the same time fosters the new national spirit of the Slav. To certain of the more moderate Russians the English note is logic and absurdity the latter predominating. It is very unwise, they argue, to mix these two in a Note to Russia especially at the present time when Russia is now on her feet so to speak and all repetition of these diplomatic blunders should be avoided as they will always have the contrary effect to that anticipated by Russia's enemies. The sooner the Entente realizes the fact that the present power of Russia, however far short it may fail to come up to Europe's and America's expectations and demands, nevertheless is here to stay and Notes, such as those served upon it by England, only pull a bone, in the language of the New World.

Chita, Siberia, May 22, 1923.

Review of Yearly Work by Chinese Ratepayers

The Chinese Ratepayers' Association held its annual meeting at the Shanghai Chinese General Chamber of Commerce on Sunday morning, June 10, as well as its annual election the same day. Fang Chiao-pan, vice-chairman of the Shanghai Chinese General Chamber of Commerce presided over the meeting.

The report of the last year in which the work done by the ratepayers was reviewed and read by Chu Keng-shin, chief secretary to the association. Some of the facts touched upon in Mr. Chu's report were relative to the fact that although the Chinese paid their annual dues to the Shanghai Municipal Council, they were denied the right of representation at the council and had no voice therein. Despite the fact, Mr. Chu said, the Chinese Advisory Board was formed in 1921, its members were not considered as the formal representatives of the Chinese ratepayers on the council. Other subjects touched upon were with regard to the proposed reform of the international Mixed Court, which subject could not be confused with the proposed abolition of extraterritoriality as they were entirely separate issues. The nine new directors elected to serve a term of three years include: Kan Chiu-nam, Hsu Chien-ling, Chu Keng-shih, Dr. David Z. T. Yui, Yuan Wu-chu, C. C. Nieh, P. T. Ziar, Woo Yuin-tsai and Mr. Loo Ching-san.

Yellow River Work to Be Described

Paul Page Whitham of the Asia Development Company, delivered a lecture dealing with the Yellow River project in Shangtung province, at the Shanghai Y. M. C. A, on Friday afternoon, June 15. The occasion was the meeting of the Association of Chinese and American Engineers and Mr. Whitham's subject was "New-Old China—Industrial Development." The talk was illustrated with slides showing the development of factories and other engineering projects, including the Yellow River control work, recently completed. The Asia Development Company is responsible for the completion of the dike work, which has stood the test of the first sharp rise of water and thus saved a very large section of country from further suffering.

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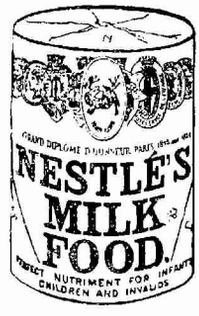

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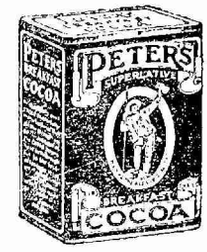

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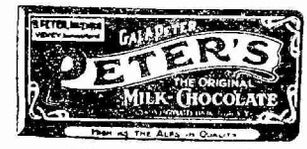

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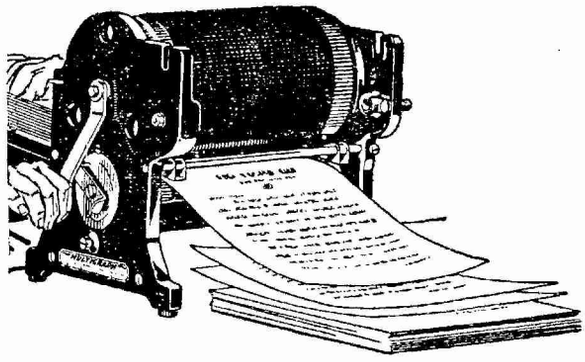

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Men and Events

A fellowship luncheon will be held on Wednesday, June 20, at 12:15 o'clock at the Union Club, Shanghai. Members are requested to bring guests on this occasion.

On Mondays, Wednesdays and Saturdays, Professor R. and Mme. Steinhauser, violinist and pianist, will give concerts at the Columbia Club during tea hours from 5:30 to 7:30 o'clock, beginning June 11.

The Community Church campaign now being conducted in Shanghai for the erection of a church building, according to a report made by the committee on Wednesday, June 13, has secured Taels 33,000 as a part of the total amount, Taels 65,000.

The American College Club held its final meeting at St. John's University, Jessfield Road, on Tuesday afternoon, June 12. A picnic supper was given on the lawn, preceded by a short program of "stunts" given by respective members of the club.

Colonel J. M. Wainwright and party arrived in Shanghai this week enroute to Manila, P. I. Colonel Wainwright was assistant Secretary of War during the first two years of the Harding Administration. He is accompanied by Mrs. Wainwright and they are making a pleasure trip in the Orient.

G. H. Daniel of the British American Tobacco Company, Shanghai, who has been in the United States and Europe on furlough, is expected to sail for Shanghai from Seattle on July 13, on the Admiral Line steamer, *s. s. President Jackson*. Mrs. Daniel who has been confined to a sanitorium at Biltmore, North Carolina, for the past year, is planning to return to Shanghai in the Fall.

A separate ladder singles tournament for ladies and gentlemen will be started in the near future at the Columbia Country Club, with the object of improving the standard of singles play and of arranging players in order of merit. It is desired that all players participate in this tournament which will be continued throughout the season. Entries for same should be sent to the secretary or posted on the bulletin board not later than June 15. There will be no entry fees or prizes.

Commencement exercises of Shanghai College will be held on Saturday, June 16, at three o'clock. T. C. Wu, and C. C. Chen, former graduates in the class of 1913 at the College will deliver the addresses. The commencement this year coincides with celebrations of the fifteenth anniversary of the college's opening and the tenth anniversary of the graduation of the first class. The dedication of the Science Hall, the Academy buildings and the Woman's Hall and Swimming pool will also take place.

The China Law Department of Soochow University issued invitations for its sixth annual commencement the exercises beginning on Sunday, June 10, when the baccalaureate sermon was delivered at 10:30 o'clock at McTyeire School; on June 14, at 4:30 o'clock the public moot court trial was held; and graduating exercises held on June 15, at the school, 20 Quinsan Road, Shanghai. There are five graduates of this department this year, namely: Shickung, Kiang Ye Bing, Ting Tsen Kyung, Shen Yi Chien, Luther Z. Cool.

The Pan-Pacific Association held a luncheon on Monday, June 11, in honor of Alexander Hume Ford, founder and director of the Pan-Pacific Movement, at the Carlton Cafe, Ningpo Road. Chung Meng-yew, presided over the meeting, and the other speakers were Consul-General Funatsu of Japan, S. U. Zau, China's Delegate to the Pan-Pacific Commercial Conference, and Mr. Ford. Mr. Ford in his address emphasized the fact that there should be closer co-operation between the nations bordering on the Pacific, as was the theme of most of the addresses delivered.

The second National Merchandise Fair to be held in New York City from July 23 to August 3, 1923, promises to be greater than its predecessor in its display of American products. The inaugural merchandise fair was launched a year ago with only three months of preparation and with practically no attempt having been made to attract merchants and buyers from other countries. It proved a great success. Several hundred buyers from all parts of the world gathered representing Canada, United States, China, Japan, Australia, Sweden, Denmark, Austria, Switzerland, Cuba, Honduras, Mexico, Argentine, and other South American countries. The primary idea back of every fair has been to bring the seller and buyer together under the most favorable auspices.

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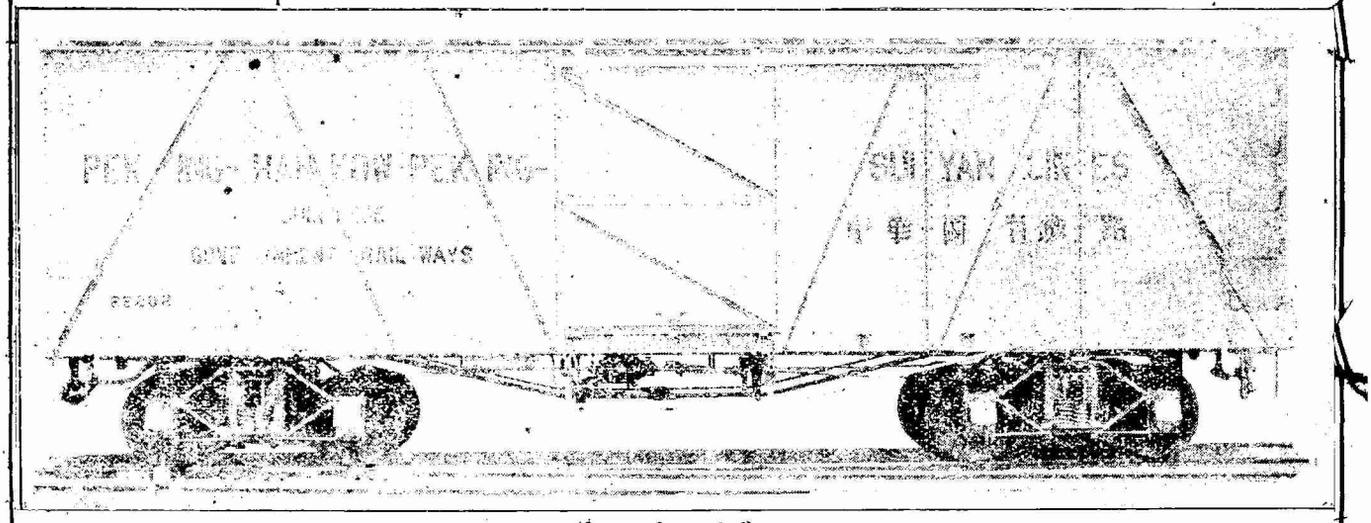

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Views In Review

China can't put ban in banditry until she has put the try.

When we say foreign powers should give China a hand, we don't mean sell her arms.

A propagandist announced that Sun Yat-sen had come back with a vengeance, and we thought it was for avengeance.

Uncle Sam didn't know that he did have so many friends until he saw how the foreigners were worrying over the danger to his health from cutting out his toddy.

Passengers on European ships bound for the United States are to heave their liquor overboard when they reach the three mile limit, London announces. That credits them with being good sailors.

The Manila reports that said Governor Wood had appointed a permanent pest control board failed to say whether political agitators were to be officially classed as permanent pests.

A Celestial Cop and an Infernal Fiddle at World Police Confab

China's pioneer police chief, Col. G. P. Wang, a Chinese member of the Society of Friends ("Quakers") representing China at the International Police Conference at the Hotel Commodore, New York, examines a most dangerous violin—one of the exhibits of the New York P. D. Bomb Squad. When the police captured this fiddle it was jammed full of dynamite to be used as an infernal machine.

Col. Wang is the first representative ever sent abroad by China to study police systems and methods. He will spend a year of study in America and Europe. His first public work was to establish the police patrol on the Tientsin-Pukow railway when it was opened 10 years ago. At present he is Chief of Constabulary of Kiangsu Province, which has an estimated population of 24,000,000 and includes the great cities of Nanking, Soochow, Shanghai, Wusih, and Yangchow—so that in power and scope of work he is probably the superior of any police official at the conference. New York and Scotland Yard *not* excepted.

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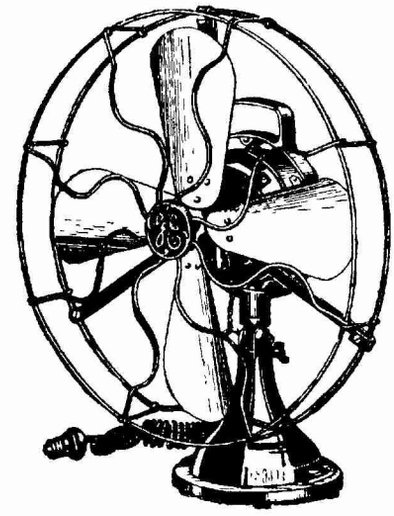

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News from South China

The expenses of the office of the civil governor shall not be more than $30,000 a month, according to a decision of the new governor.

Kwangsi-ites residents, in Canton, are trying to agitate against the return of Shen Hung-ying and his defeated mercenary army to Kwangsi.

There is so far no action taken on the request of many citizens and organizations in several cities of China for Dr. Sun Yat-sen to resume his office as the President of the Constitutional government of China.

The commissary-general of the general headquarters has ordered all troops and commanders not to interfere with rice transports and the salt commissioner has issued similar requests to protect all salt transporation junks.

Canton is expecting the return of C. C. Wu, son of the late Dr. Wu Ting-fang and a former vice-minister of foreign affairs of the Military government. If there will be another foreign ministry here, Mr. Wu will probably be made minister.

Upon the official report from General Wei Pong-ping commander-in-chief of the West River front, the Generalissimo, Dr. Sun Yat-sen, has recently ordered a record of merits for those who have taken important parts in the struggle.

The Municipal Advisory Council is having a bill on hand requesting the Executive Commission to refrain from declaring all temples in Canton a city property and thus prevent their being sold. Many of the temples have been sold, however.

General Hsu Chung-chi in Swatow has issued an order asking for the arrest of General Huang Ta-wei, a long time associate of Hsu under Dr. Sun Yat-sen. A reward of $40,000 has been offered for the person of Huang when caught alive and $5,000 if dead.

Chau Lu, M.P., commissioner-designate of Kwangtung finance, is asking for permission to resign from the Generalissimo, assuring the Generalissimo that he will be glad to assist him in any other way. The Generalissimo has so far taken no action on Mr. Lu's resignation.

Civil Governor Liao Chung-hoi of Kwangtung has begun preparing for the organization of bureaux for taking census of the province and making new surveys of the lands. Governor Liao is also trying to perfect the system for the election of district governors or magistrates by the people.

Judge Loo Hing-yuen, procurator-general of the Constitutionalist government in Canton, has made application to the Generalissimo for a large public building to be converted into a reformatory, a house of detention, and a work-house for prisoners of debt. Judge Loo is hoping to finally get an appropriation of $600,000 for the purpose but at least $150,000 or more to start. Judge Loo is already working on the scheme.

Li Chi-tang, Commissioner of Kwangtung Public High ways, has issued a call upon the citizens to co-operate in road construction and highway building activities. Individuals, organizations, or communities who will form companies to finance the road building scheme in accordance with the plan laid down by the government will receive prior rights in getting licenses for the operation of street cars and other vehicles along the road.

Ching Chin, minister of war in the Constitutionalist government, was in the Eastern front, East River, Kwangtung, some time in week ending May 26. With him was Brigadier Chu Shi-kwei, who arrested the acting supervisor of the Canton-Samshui Railroad sometime ago. The many prisoners captured from the enemy and brought back into Canton by General Liu Chen-huan seem to indicate a favorable situation for the Constitutionalists in the eastern section of Kwangtung

As a preventive measure, the Municipal Department of Public Health in Canton has declared Sheklung an infected district and all incoming passengers and persons from that direction may be subject to inspection by Canton health authorities against the introduction of plague into Canton. A temporary hospital for contagious diseases has been erected at the Elephant Hill, or Chiang Kong, just east of the city. Suspects will be treated there free of charge by the local government.

In the last two months the Canton municipality has contributed nearly $1,750,000 toward the general headquarters for war expenses and about $35,000 to the government house for provincial administrative expenses, and $20,000 for the maintenance of the seven higher schools in Canton, and $20,000 for the government students abroad. These payments were more or less in the term of loans and will be refunded upon the demand of the Municipality for local improvements

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and activities. it is understood. Most of the funds have come from the recent sale of Canton government lands or temples reclaimed by the city.

The town of Sheklung along the Canton-Kowloon Railroad in the Eastern section of Kwangtung has been declared an infected district, and some eight physicians have been sent from Canton to combat with the plague now spreading from that place. The physicians are ordering all dead from this disease to be cremated and all fatal cases sent to special hospitals for contagious diseases. The Canton Municipal Department of Public Health has inaugurated preventive measures, subjecting all incoming passengers on the Canton-Kowloon Railroad to inspection and removing all suspects to special hospitals now being located at Elephant Hill east of Canton. Reports from Kaochow, south-western section of Kwangtung, also show signs of some kind of pestilence there.

The West River districts in Kwangtung have ceased to be a war zone, and efforts are being made to tranquilize the land by further suppressing the remnants of the Kwangsi Army now scattered all over the Delta. Reports from the North River section state that the retreating forces of Wu Pei-fu and Shen Hung-ying have halted at Taikiu, some 30 miles from Shiukwan, digging trenches to wait for tidings from the East River fronts. In case the Eastern front developments appear favorable to the enemy of the Constitutionalists, it is believed that Wu and Shen may attempt a "come back." So far Chen Chiung-ming's followers have failed to gain head-way in their expected return to Canton. The Constitutionalists are at present operating for the capture of Waichow, the fall of which will lend much moral and political prestige to the Constitutionalist government in Canton. Waichow has been considered the "capital" of the pro-Chen forces and is the home-town of many of the leaders now siding with Chen Chiung-ming against Dr. Sun Yat-sen.

H. W.

Canton, May 26, 1923.

All Foreign Captives Released by Shantung Bandits

(Week in the Far East: Covering the period from Thursday, June 7, to Wednesday, June 13.)

All the remaining foreign captives (eight) were set free by the Shantung bandits on the evening of June 12. Since the attack on the night express on the morning of May 6, when the bandits derailed the train, looted it, and made off to the hills with foreign and Chinese prisoners, 38 days had elapsed. The Chinese prisoners, said to be 40 in number, are still held by the bandits.

The eight foreigners released on Tuesday were: (American) Leon Friedman, Lee Solomon, Major Roland Pinger, J. B. Powell; (British) R. H. Rowlatt, Fred Elias; (French) Emile Gensburger; (Italian) G. D. Musso. With them, three Chinese captives, Cheng Chi of the China Merchants Bank, Prof. Hung Shi Chi and Chang Zung-tsoo of Nanking, were also released. The latter had been quartered with the foreigners and had rendered valuable help as interpreters.

All but two of the group released arrived in Shanghai at ten o'clock Wednesday evening, June 13. A large gathering, organizations, families and friends, met the train, giving the ex-captives a rousing welcome home,

Final negotiations for the release were extremely delicate, and but for Roy Anderson, American and formerly adviser to President Li Yuan-hung, would have failed at the last moment due to the vigorous objection of some of the bandit leaders. The bandits received, according to report, $112,000 Mex. as back pay for army service and indemnity for property damages made by government troops, and also the assurance of 2,500 being enrolled in the regular army. Chinese officials agreed to the terms, and Roy Anderson's guarantee of enrolment was accepted by the bandits.

Previous to the report of the captives' release, news of the progress of negotiations one day aroused hopes and the next day dashed them.

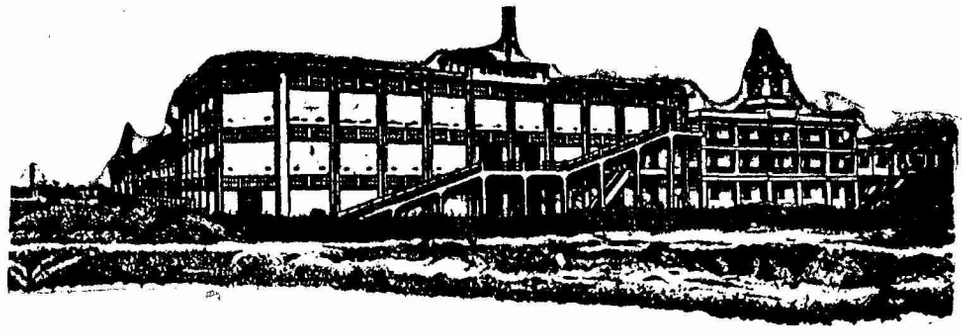
The gist of reports in the press day by day previous to the final release, follows:

June 7. "The enrolment of the bandits in the army is continuing. Everything is propitious for the early release of the captives."

June 8. "All captives out by Sunday, is opinion at Tsaochwang now."

June 9. "Roy Anderson, Commissioner Wen and General Chen Tiao-yuan will go to Paotzuku again tomorrow in what is expected to be the final trip in connection with the negotiations."

June 10. G. D. Musso, one of the captives, wrote as follows from the camp: "All that is said and published about



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Peking.

our release in two or three days is tommyrot. If things are not taken seriously, we will be here for several weeks yet." Another message read: "The bandits are becoming meaner and more insulting and dangerous daily. One of the underchiefs struck J. B. Powell in the back and Powell 'beat him up good and proper.'"

June 11. "The process of enrolment of the bandits into the national army is practically concluded, but the bandits wish for three days' extension in which to complete their own affairs."

The International Commission of inquiry is now hard at work. The hearing is in camera, but it is understood that the chief points which the Commission is endeavoring to clear up are whether the train crew were aware of the impending hold-up, and whether the train-guard attempted to resist the looting of the train.

Two car boys were interrogated and Lloyd Lehrbas, one of the captives who escaped an hour or two after the wreck occurred, gave his version.

The Commission is constituted as follows:—

Mr. Wen Bing-ching, Mr. Clarence S. K. Chow, Dr. Telly Koo (sec.), Dr. Lee Fong. Mr. Tung Sung-ting, Ministry of Forign Affairs; Messrs. Sun Feng-tsao, S. T. Chow, M. P. Tsing, I. Hsuan-si, Railway Directorate and Staff; Messrs. Feng Kuo-hsuan, Cheng Ren-jih, Civil Governor's Representatives; Mr. Tu Sih-chieh, Tuchun's representative; Mr. B. G. Tours, British Consul-General, Mr. J. K. Davis, American Consul. M. Crepin, French Consul, Signor R. Ferrajolo, Italian Consul, and Major W. C. Philoon, U. S. Assistant Military Attache.

The Diplomatic Corps in a Note to the Waichiaopu expressed profound astonishment at a statement by General Chang Shou-tseng to the effect that the Diplomatic Body is to blame for China's failure to obtain a speedy release of the captives in Shantung. The Diplomatic Body protests against the statement, both on account of its flagrant inaccuracy and its deplorable lack of international courtesy.

The following *Reuters* message appeared in the China papers on June 12:

"A cable has been received in England from Shanghai, signed by the principal British engineering firms operating in China, protesting against the Lincheng outrage and calling attention to the present danger to British lives and enterprise in China. The opinion is expressed that if the foreign Powers do not take drastic action trade in China will soon be impossible. An appeal is made to obtain the influence of Parliament and the Foreign office strongly to support the diplomatic representatives and to remedy the existing state of affairs promptly.

"The *Times* gives prominence to a message from its Peking correspondent declaring that foreigners in China are firmly of the opinion that the Lincheng case ought to constitute a turning-point in the relations between China and the foreign Powers. It says that all business with the Chinese Government will become impossible. There are thousands of unprotected foreigners in the interior and brigands will inevitably repeat the Lincheng outrage in order to blackmail the Government if precautionary measures are not taken. It is essential that the foreign Powers now assert themselves in some signal manner. There should be no difficulty in concerting a line of action which would give satisfactory results from the foreign standpoint and prove a blessing to the helpless mass of Chinese people."

The boycott which is in progress against the Japanese has resulted in several outbreaks. That of June 1 at Changsha has occupied considerable space in the press. The *Eastern News Agency* reported:

"A Changsha despatch dated June 4 reports:—Students of various schools and members of public bodies have to-day attended the funerals of the Chinese who were killed in the recent fracas. The streets along which the funeral procession passed were strictly guarded by the Chinese authorities. The Japanese gunboat, *Fushimi*,, has shifted her berth to a point in front of the Japanese Consulate. As the boycott agitation is still being systematically carried on, no Japanese shops are opened as yet, but the situation is at present not so serious as before. Another Japanese gunboat, *Ataka*, arrived at Changsha from Hankow on the 4th instant at 4 p. m.

"Owing to the fact that the Changsha incident has taken a turn for the worse, the *Buryo Maru* is leaving here for Changsha with one week's provisions for the 300 Japanese residents. It is semi-officially reported that Admiral Kobayashi, Commander of the Japanese Squadron on the Yangtze, has telegraphed to the Commander of the Sasebo Admiralty Port, asking for the despatch of four destroyers."

A note from China to Japan on June 6 in connection with the Changsha incident demands: (1) The punishment of the Japanese commander of the marines; (2) Indemnity for those killed and wounded; (3) That the commander apologize to the local authorities; (4) That the Japanese Government

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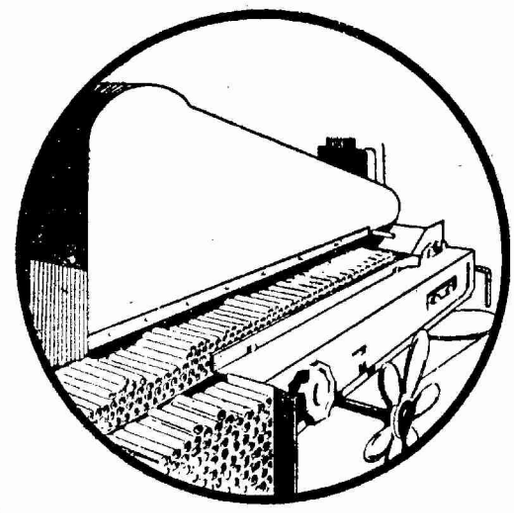

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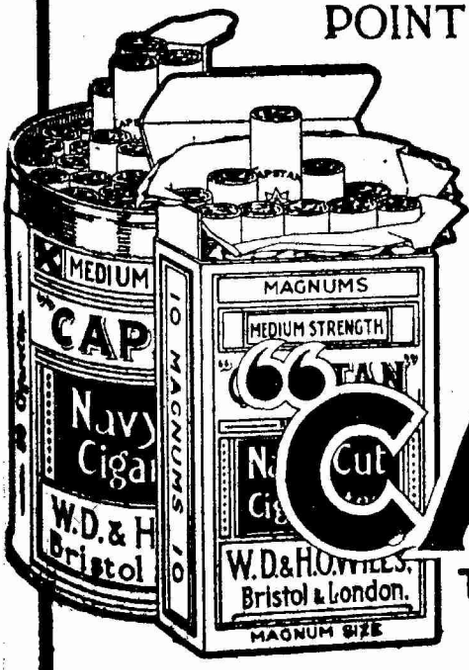

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apologize to China; and (5) That Japan guarantee that similar troubles will not occur in future. A previous note to Japan demanded the withdrawal of the gunboat, *Fushimi*, China understands that Japan complied but is sending another gunboat. The Note of June 6 demands the withdrawal of this gunboat.

Reuters reported Japan's reply as follows:

"Japan has requested China to take immediate steps to quell the disturbances menacing the lives and property of Japanese residents in China.

"Japan also declared that she will always defend her nationals engaged in legitimate business when endangered by outbreaks beyond the control of the Chinese authorities for which a reinforcement of four additional destroyers will be despatched to China as the trouble is apparently spreading elsewhere.

"Japan, it is stated, is unable to negotiate with regard to the Changsha incident until the trouble caused by the anti-Japanese goods boycott is settled."

Other anti-Japanese demonstrations were reported by the *Eastern News Agency*:

"A Changsha despatch says:—The N. K. K. agency in Siangtan, Hunan, was attacked and destroyed by Chinese rioters. All the Japanese residents in Siangtan have withdrawn to Changsha. These refugees, numbering some 150, by order of the Japanese Consul, have decided to take refuge in the Japanese Consulate as well as in a Japanese steamer which is now at anchor near the Japanese gunboat, *Ataka*. According to circumstances, it is probable that they will all take refuge in Hankow.

"A telegram from Ichang reports:—As there are signs of the Chinese troops stationed in Ichang creating disturbances and sacking the city, Japanese residents, for fear of the worst, are making preparations to take refuge near the N. K. K. branch office. The anti-Japanese agitation in Ichang is growing more serious than ever. Sampans are being prevented by the agitators from approaching the Japanese steamers now at anchor in the port. In Wanhsien, Szechuani a situation similar to that in Ichang is previling with the consequence that all the Japanese in the employ of the Mitsu, and Mitsubishi Companies are reported to be withdrawing from Wanhsien.

"A telegram from Changte reports:—Two seamen of the str. *Hsiangkiang Maru* now at anchor in Changte have been arrested and led about the streets by Chinese students, and seven others have been driven into the N. K. K. office, so that they are unable to return to their steamer. As the situation offers a gloomy prospect, the Japanese residents in Changte have also decided to withdraw in a body in a few days."

The Japanese Chamber of Commerce, Tientsin, passed the following resolution.

"The Changsha incident is an outcome of the failure of the Chinese authorities to control the anti-Japanese agitation. The present state of affairs in China causes all the Japanese living in China to entertain extreme apprehensions. It is devoutly to be hoped, therefore, that at this juncture, the Imperial Government of Japan will file a strict and thoroughgoing protest with the Chinese Government regarding the responsibility of the Chinese authorities concerned and against the anti-Japanese agitation in general. In case the Chinese government fail to control the agitation drastically, resorting to their former methods, Japanese residents in China will have no alternative but to devise means for self-defence requisite to face the menace to their life and property, and the Chinese Government will be called upon to take the entire responsibility upon itself."

Following the resignation of the cabinet en bloc on June 6, the attention of the Peking government has been focused on the selection of a new premier with conflicting reports as to the resignation of President Li Yuan-hung.

Rodney Gilbert, in the *North China Daily News*, reported as follows the reasons for the cabinet's resignation:

"The collapse of the Cabinet is due to a belief on the part of the Tsao Jui faction that the Premier is no longer useful and to the Finance Minister's complete failure to float loans, thanks to the opposition of the Bankers' Association engineered by Wang Ko-min and the Bank of China. Tsao Kun recently decided that the Premier General Chang Shao-tseng's political career is ended and that he is therefore useless, so he instructed the Paoting members of the Cabinet to bring about the resignation. The Premier refused to resign, hoping that loans would re-establish him in favour.

"Mr. Chang Ying-hua's failure was apparent several days ago, so Wu Yu-lin and Kao Ling-wei, who are the Tsao Jui agents (he is the brother of Tsao Kun) in the Government, threatened to resign individually if the Premier stayed. They therefore did not attend the Cabinet on Tuesday. Pan Fu came to Peking to help Chang Ying-hua but the situation was recognized to be hopeless, so lacking financial support, the Premier succumbed.

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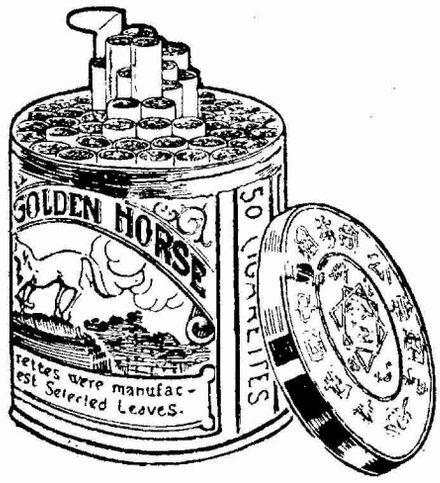

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"Chang Ying-hua is out of favour with Tsao Jui because he promised to raise the funds for Tsao Kun's Presidential campaign, as well as administrative funds. Latterly his only hope has been in Salt Bonds which were clearly in violation of the agreement entered into with Sir Reginald Gamble when 14 millions were issued providing that the Salt surplus should not again be hypothecated. This agreement was then sealed by Mandate, so that Chang's plan to raise an extra seven millions was foredoomed if Sir Edward Wilton cared to make strong opposition. Chinese bankers also fought all Chang Ying-hua's schemes, his only support being from Pan Fu's banks.

"Dr. Wellington Koo and Wang Cheng-ting are candidates for the Premiership, seeking Loyang, that is General Wu Pei-fu's support. The older politicians expect General Chin Yun-peng, an ex-Premier, to attempt to come back with Chang Hu as Minister of Finance.

"In addition to the Cabinet's circular telegram, Gen. Feng Yu-hsiang has also sent circular telegrams to the Provinces declaring that the President has been interfering with the Cabinet's functions. The telegram almost amounts to a demand that President Li Yuan-hung should leave office."

A special message to the *China Press*, dated June 8, read:

Dr. W. W. Yen has accepted the invitation of President Li Yuan-hung to organize a Cabinet. He and Dr. Wellington Koo had tiffin together with the Chief Executive when the latter first offered the premiership to Koo, who declining, suggested that Dr. Yen would be better for that post. Koo will be Foreign Minister in the new Cabinet.

"Dr. Yen at first refused to accept unless Wang Kuo-min, the financier, is made Minister of Finance. Telephone messages were sent to Mr. Wang to have tiffin with the president but he could not be reached. Upon further inducement Dr. Yen consented to accept the premiership.

"When seen later in the day, Mr. Wang declared that he did not propose to accept the finance portfolio unless his appointment was endorsed by General Tsao Kun.

"The president sent another telephone message to Premier Chang Shao-tseng to return to his office as a matter of course. If this receives a negative answer, the appointment of Yen will be formally gazetted."

On Wednesday, June 14, President Li left Peking for Tientsin, apparently giving up, and Tsao Kun was expected to take charge of the government.

The whole trouble has been about the continuance of President Li in office. One press interview reported the President's intention to stick to his post, as follows:

"The President said that six years ago the Constitutional draft passed its second reading with the exception of a few articles. Those missing articles were today practically settled. The President said that the present issue was the so-called provincial system, viz., definition of the respective powers of the Central Government and the provinces, which was to form an additional chapter. That explained the efforts made to prevent Parliament from completing its work for the fight was now between provincial self-government and the tuchun system. It would not take more than a month or six weeks to settle the matter. 'I am determined not to leave the Presidential Chair until it is settled.'"

The Peking gendarmerie, instigated by enemies of President Li, went on strike but upon receiving one month's pay returned to duty. Foreign patrols were on duty in the streets of Peking while the police were out on strike, and it was feared that General Feng Yu-hsiang would pour his troops into the city on the pretext of preserving order. However, payment of the police averted serious trouble for a time.

Reuters reported as follows on the Canton situation:

"It is reported that the Constitutionalists have evacuated Shiukwan because the Northern troops outnumbered the Yunnanese forces.

"It is understood that Dr. Sun Yat-sen is proceeding to Waichow, personally to direct operations against General Chen Chiung-ming's followers.

"The people of Canton fear that there will be no end to the present struggle as, while General Chen Chiung-ming has really only a few followers under his personal control, there are now several small factions working independently against the Constitutionalists, under the nominal leadership of General Chen."

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25-102

In Japan, the court and populace were in mourning on June 8, on the occasion of the funeral of Prince Kitashirakawa.

Japanese press has been agitated over the boycott in China against their nationals, and likewise over the growth of socialism, following the arrest the previous week of a large number and the unearthing of socialist plots against law and order.

In the Philippines, and elsewhere throughout the Far East, no events transpired of more than local interest.

GENERAL NEWS SUMMARY

June 7. German Note with regard to reparations demands a moratorium until end of 1927, but offers to make deliveries in the meantime in kind to the value of G. Mks. 2,500,000,000 and in 1928 to begin annual payments of G. Mks. 1,500,000,000 which shall continue for thirty-five years, according to Berlin despatch.——Attacks continue to be made on proposal of new Singapore Base in House of Commons, London.

June 8. Cairo report says Cabinet is considering proposal of Suez Canal Company to plan new eastern bank of Canal, called Port Said East, and proposes to advance Frs. 10,000,000 without interest for this purpose, to be refunded from sale of land,——A trade agreement between the United States and Turkey is said to be the subject of another discussion between the parties, apart from the Lausanne Conference.——London report says Ministry of Pensions in official announcement calls attention of those who served in the war to the regulations now in force with regard to awards for disablement and the subject of final awards.

June 9. New Note from Germany is delivered to Allies and is in form of memorandum offering to accept the decision of an impartial international body regarding the amount and method of payment of reparations and offering a scheme of annuities and guarantees.

June 11. A military *coup d'etat* occurs in Bulgaria and all old Ministers and most of deputies have been arrested.——General Wang, Chief Police Inspector of Kiangsu, arrives in London from New York for fortnight to study system used in Scotland Yard with view to organizing Chinese Central Criminal Office on similar lines.——The Austrian Loan of which the British portion of £11,000,000 is being underwritten, is a historical event, according to report from London.

June 12. The League of Nations Loan to Austria totals £32,623,000, to which Britain contributed £14,000,000 nearly three times that of any other power, according to London report.

June 13. Serious floods occur in Middle West of United States causing much damage and making thousands of people homeless.——As a result of the debate on the Budget in the House of Commons, a resolution was adopted authorizing establishment of a Debt Sinking Fund.——An affray has taken place at Dortmund and is of a more serious nature than early reports stated. Martial law is proclaimed and the French troops are reinforced, according to Berlin report.——London writer thinks that Japanese will rule the East is the theme of a subject of articles to appear in London press.

Weekly Cotton Market Report

By A. B. Rosenfeld & Son

China Cotton.—During the early part of the week, the cotton market was rather firm, prices having advanced about three-quarters of a tael. At the close, however, the undertone was steady.

Regarding the crop outlook throughout the principal growing centres with the exception of the Shantung and Chihli Provinces, we have the pleasure of reporting a favourable week for the progress of the crop. The "tap root" is well down in the soil, which is generally considered a favorable sign and the farmers are satisfied with prevailing conditions.

The natural result of our reasoning is that we see no reason for either materially higher or materially lower prices for cotton in the near future until something definite can be known as to the general outlook of the world markets and the progress of the crops in China.

Yarn.—The market during the early part of the week has been a shade on the easy side due to the fact of the approaching Dragon Festival Settling Day. At the close, however, the undertone was steady. In all some 6,000 to 7,000 bales have been booked for export to Szechuen, Chefoo, Weihaiwei, Canton, Tientsin, Swatow, Fukien and Hankow and over 1,000 bales direct business with our Domestic Mills has been recorded.

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Shanghai Exchange for Week Ending Wednesday, June 6th, 1923

By Maitland, Fearon and Brand

Exchange:—The London price of silver at 31 1/16d. is 1/16d. lower than last week. The rate for forward delivery is 31 3/8d. Our official rate for T/T on London responded with a drop of 1d. to 3/1d., but to-day what appeared to be an easy market was raised to 3/1 1/16d. The rate was however only available for cash delivery.

The open market came into line with official quotations and at the close 3/1 1/16 July 3/1 3/16 August was available against resales of gold T/T by local gold dealers.

The tone of the market is uncertain as silver does not show any strength for forward delivery.

Our stocks of silver are reported as follows:—

Sycee and Bar Silver .....Tls. 22,119,000 an increase of Tls. 679,000

Chinese and Mexican Dollars..... $ 32,810,000 an increase of $ 1,250,000

Estimated value Tls. 45,742,000 as against Tls. 46,916,000 held at this time last year.

T	Average rates for May	Thursday May 31	Friday June 1	Saturday June 2	Monday June 4	Tuesday June 5	Wed June
Bk's selling rates		*opening closing*	*opening closing*	*opening closing*	*opening closing*	*opening closing*	*open clos*
T/T London	3 2.211	3/2 3/1 3/4	3/1 1/2	3/1 1/4	3/1 1/4	3/1	3/1
D/Dits. ,,	—	3/2 1/8 3/1 7/8	3/1 5/8	3/1 5/8	3/1 5/8	3/1 3/8	3/1 3/
4m/s ,,	—	3/2 1/4 3/2	3/1 3/4	3/1 1/2	3/1 1/2	3/1 1/4	3/1 1/
T/T India	236.432	235 1/2 234	232 1/2	231	231	229 1/2	229 1/
T/T France	1,110.385	1110 1100	1110	1105	1110	1110	1100 1
T/T N. Y.	73.668	73 1/4 72 3/4	72 1/4	71 3/4	71 3/4	71 1/2	71 1/2 7
T/T H'kong	74.000	74 74	73 3/4	73 3/4	73 3/4	73 3/4	73 1/4 7
T/T Japan	66.750	67 67 1/2	68	68 1/2	68 1/2	69	69
T/T Batavia	191.635	190 1/2 189 1/2	188	187	187	185 1/2	185 1/2
T/T Straits	73.808	74 1/4 74 3/4	75	75 1/2	75 1/2	76	76 7
Bk's buying rates 4m/s B/L. Cred. D/A	3 4.211	3/4 3/3 3/4	3/3 1/2	3/3 1/4	3/3 1/4	3/3	3/3 1/
4m/s ,, D/P	—	3/4 1/4 3/4	3/3 3/4	3/3 1/2	3/3 1/2	3/3 1/4	3/3 1/
6 m/s ,, D/A	3/4.711	3/4 1/2 3/4 1/4	3/4	3/3 3/4	3/3 3/4	3/3 1/2	3/3 1/
4m/s B/F. O., D/A, D/P	1,160.385	1160 1150	1160	1155	1160	1160	1150
4m/s N.Y. Lc.	77.707	77 1/2 76 3/4	75 1/4	74 3/4	74 3/4	74 1/4	74 1/
4m/s ,, Docs	—	77 3/4 77 1/4	75 3/4	75 1/4	75 1/4	74 3/4	74 1/

†Based on Daily Official quotation, higher rate taken on rising Market, lower when falling	May 31	June 1	June 2	June 4	June 5	Jun
Bullion.						
*London Price of Bar Silver per oz. English Standard 925 touch) Fence.	32 1/16	32	31 7/8	31 7/8	31 1/16	31
*N.Y. Price of Bar Silver per oz. (Pure)	G. $.	G. $. 66	G. $. 65 5/8	G. $. 65 5/8	G. $. 65 3/8	G. $
Shanghai Price of Gold Bars (weight Tls. 10 (Chauping) 978 touch	Tls. 324 70	Tls. 325 20	Tls. 325 40	Tls. 329 60	Tls. 327 10	Tls. 32
Shanghai Silver Bars (weight Tls. 100 (C.) 999 touch)	* 111 00	111 00	111 00	111 00	111 00	111
Shanghai Mexican Dollars per $100	71.9375	71.875	71.9375	71.8125	71.7625	71.7
Native Bank Rate of Interest (Callmoney)	7%	5 1/2%	5%	4 1/2%	5%	4 1/

*Closing Price in London for Previous day.
**Closing Price in New York for Previousday

Bank of England rate of discount	3%	London on Paris	T/T 71
Bank of France rate of discount	4 1/2%	London on Germany	T/T 28
London open Market of rate Dis. 3 m/s.	2%	New York on London	T/T 4
,, ,, 4	2%	Bombay on London	T/T 1/
,, ,, 6	2 1/4%	Hongkong on ,,	T/T 2/
		Yokohama ,, ,,	T/T 1/

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New Books and Publications

The Lingnaam Agricultural Review,—College of Agriculture, Canton Christian College, Canton.

A journal such as the Lingnaam Agricultural Review, coming from South China as it does with a fresh store of knowledge and much-needed facts to supplement the vague and misty conceptions of North and East China, encourages one almost to believe that we are at last getting on, that we are waking up, and that in China progress in science is really being made.

The publication itself is unostentatious, very neatly and not too expensively gotten up. The material it contains is valuable not only for the farmer but for the teacher. The facts about the water buffalo had previously been unknown to the writer until he was able to read C. O. Levine's article on "The Water Buffalo for Dairy Purposes." Although not a dairyman the writer wishes to thank Professor Levine for the added information about such a common animal in China, and furthermore invites all who have not to read this interesting account.

Professor Groff has given us an eminent example of industry in having indexed his herbarium according to the system which he describes. It is certainly true that some kind of cataloguing system is needed whereby plants may be referred to instantly by radicle, local or standard romanization, Latin and English names. We are of the impression that the system requires a great deal of preliminary study, a knowledge of local names, and access to authoritative literature as well as wide experience in systematic practice, collecting, herbarium management and training. It is an ideal system provided there are available qualified systematists who are sinologues as well. Given the position and time this work can be carried on. It would be a great thing for systematic botany in China if some standard system such as this could be established all over China beginning with University centers or Municipal departments where the means are procurable.

To one of the writer's profession the biological notes were hailed as welcome reference matter. It is to be hoped that more of this kind of thing can be done; that more detailed descriptions of flora and fauna with perhaps sketches and photographs. We need a standard reference work with descriptions of all the species of plants and animals in China. Such notes and accounts as are being published in the China Journal of Science and Arts, the Lingnaam Agricultural Review, other local college bulletins are laying foundations for such a work.

Mr. McClure's explorations in Hainan are interesting as far as they go but are described in rather note-book form. He must have had some unusual experiences while travelling through that country, and some thrilling moments while climbing the Five-Finger range. We wish that we could have been allowed a glimpse of this side of the trip.

To the pioneers who have thus courageously launched a new undertaking we offer our encouragement and the hope that this venture may prove so successful that, in the near future, we may look for more than two issues a year of the Lingnaam Agricultural Review.

St. John's University, June 8, 1923.

Market Reports

(*Continued from Page 88*)

Liverpool, June 7, 1923.

Liverpool Market:—

Middling American, Spot		16.01	Pence
"	July	14.82	"
"	October	13.33	"

Market:—*Steady.*

New York, June 7, 1923.

New York Market:—

July	27.78	Cents
October	24.60	"
December	24.11	"
January	23.76	"
March	23.69	"
Spot	29.05	"

Market:—*Steady.*

Bombay, June 7, 1923.

Bombay Market:—

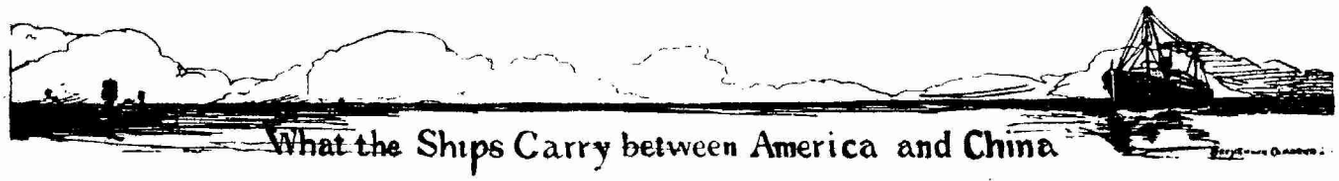
Broach, F. G. July/Aug	Rps.	534	per Khandy
Fully Good Bengal, July	"	418	" "
Fine Oomra, Dec./Jan	"	428	" "

Market:—*Firm.*

Shanghai Market:—

Tungchow, Spot	Tls.	40.00
Shanghai, Spot	"	37.00
M-ginned, Spot	"	37.50
Taichong, Spot	"	38.50
Shensi, No. 1 Spot	"	39.50

Market:—*Steady.*



What the Ships Carry between America and China

Returns of the Shanghai Customs

(*Key: Pls.—1 Picul or 133 1/3 pounds; Bls.—Bales; Pcs.—Pieces; Mille—thousands; Hk. Tls.—Haikwan Tls., Customs Rate Tls. May 1.22 equal Gold $1*)

S. S. Eastern Prince, from U.S.A., May 14.

Printed Shirtings	Pcs.	5,624
Motor-cars	,,	2
Oilcloth	,,	4,604
Waterproof Cloth	Yds.	205
Cotton, Raw, Bls. 500	Pls.	1,735
Iron Nails, Cut	,,	694
Glycerine	,,	50
Grease	,,	749
Lampwick	,,	10
Leadfoil and Tinfoil	,,	844
Paper, Printing	,,	533
Paper, Writing	,,	10
Soda, Caustic	,,	1,481
Tobacco, Leaf	,,	1,117
Tobacco, Prepared	,,	1
Wax, Paraffin	,,	5,518
Oil, Lubricating	Galls	8,745
Oil, Unclassed	,,	5,750
Paper, Unclassed	,,	1,096
Cigarettes	Mille	880
Dyes, Aniline, Pkgs 178	Hk. Tls.	13,226

S. S. President Grant, May 12.

To New Orleans.

Hair, Human	Pls.	101

To Seattle.

Walnuts, Kernels	,,	175
Carpets	Hk. Tls.	286

To Scranton.

Silk, Raw, Steam Filature:

White, Shanghai, Bls. 15	Pls.	15.10½

Silk, Raw, Re-reeled:

White, other Ports, Bls. 8	,,	7.87

Silk, Raw, Filature:

Wild, other Ports, Bls. 20	Pls.	20.07

To Newton.

Silk, Waste:

Shanghai Bls. 12	Pls.	39.88

To Baltimore.

Egg Albumen, Dried	,,	117
Egg, Yolk, Dried	,,	234

To Chicago.

Silk, Raw, Filature:

Wild, other Ports, Bls. 125	Pls.	125.99
Earthware	,,	18

To Buffalo.

Intestines, Pigs,' Salted	,,	142

To Wilmington.

Skins, Goat, Untanned.	,,	47,700

To New York.

Silk, Raw, Re-reeled:

White, other Ports, Bls. 20	Pls.	20.19

Silk, Raw, Filature:

Wild, other Ports, Bls. 165	Pls.	166.21
Egg, Whole, Dried	,,	304
Egg Yolk, Dried	,,	168
Rhubarb	,,	21
Straw, Braid, White	,,	39
Skin Mats, Dog	Pcs.	4,489
Skins, Fox	,,	852
Skins, Cat, Wild	,,	1,416
Skins, Dog	,,	381
Skins, Lamb	,,	493
Skins, Marmot	,,	6,548
Skins, Raccoon	,,	3,000
Skins, Sheep	,,	5,100
Skins, Squirrel	,,	2,074
Carpets	Hk. Tls.	879

To South Manchester.

Silk, Waste:

Shanghai, Bls. 16	Pls.	49.41

S. S. President Lincoln, May 11.

To Honolulu.

Silk Piece Goods	Pls.	0.35
Carpets	Hk. Tls.	401

To San Francisco.

Silk, Raw, Re-reeled:

White, other Ports, 36	Pls.	36.16
Silk Piece Goods	,,	1.80
Tea, Dust, other Ports.	,,	50
Books, Printed	,,	20
Egg Albumen, Dried	,,	71
Egg Alhumen, Frozen	,,	213
Egg Whole, Frozen	,,	400
Egg Yolk, Frozen	,,	212
Oil, Wood	,,	5,648
Tallow. Vegetable	,,	1,909
Umbrellas	Pcs.	3,200
Carpets	Hk. Tls.	4 649

Foreign Goods.

Antifriction Metal	Pls.	14

To Los Angeles.

Umbrellas	Pcs.	256
Carpets	Hk. Tls.	1,997

To Galveston.

Hair, Human	Pls.	50

To Philadelphia.

Skins, Goat's, Untanned	Pcs.	50,700

To Baltimore.

Egg, Yolk Dried	Pls.	72

To Chicago.

Silk, Raw, Filature:

Wild, other Ports, Bls. 36	Pls.	36.33

To New York.

Silk, Raw, Filature:

Wild, other Ports, Bls. 41	,,	41.23

Silk, Raw, not Filature:

White, other Ports, Bls. 20	,,	20

Silk, Waste:

Shanghai, Bls. 12	,,	39.19

Silk Cocoon Strippings:

Shanghai, Bls. 21	Pls.	65.25
Tea, Green, Shanghai	,,	5.06
Chinaware, Coarse	,,	12.36
Chinaware, Fine	,,	5.02
Egg Albumen, Dried	,,	119
Rhuarb	,,	34
Tobacco, Leaf	,,	525
Fans, Straw	Pcs.	9,720
Skins, Goat, Untanned.	,,	15,000
Skins, Lamb	,,	3,364
Skins, Marmot	,,	10,000
Skins, Weasel	,,	16,500
Skins, Wolf	,,	105
Umbrellas	,,	840
Carpets	,,	12,822

S. S. City of Tokio, from U. S. A., May 14.

Cotton Duck	Yds.	2,456
Cotton Goods, Unclassed	Yds.	4,833
Iron Hoops	Pls.	1,100
Iron Nails, Cut	,,	619
Iron Nails, Wire	,,	1,095
Iron Pipe Fittings	,,	14

Iron, Galvanized:

Sheets, Plain	,,	1,208
Wire	,,	400
Wire Shorts	,,	451
Tinned Plates, Plain	,,	339
Ammonia, Anhydrous	,,	16
Asbestos Packing	,,	8
Bronze Powder	,,	39
Carbon, Black	,,	281
Glucose	,,	354
Glycerine	,,	41
Grease	,,	137
Indigo Paste, Artificial.	,,	2,000
Ink, Printing	,,	60
Leadfoil and Tinfoil	,,	224
Paints, Unclassed	,,	124
Paper, Cigarette, on Bobbins	,,	81
Paper, Plated	,,	4
Paper, Writing	,,	36
Paper, Pasteboard	,,	26
Paper, Unclassed	,,	95
Pitch	,,	30
Tobacco, Leaf	,,	1,848
Tobacco, Prepared	,,	2
Motor-cars	Pcs.	2
Motor-trucks	,,	10
Oilcloth	,,	1,440
Scales	,,	6
Typewriters	,,	44
Shoes	Pairs	1,848
Canned Meats	Doz.	54
Files	,,	4,255
Hats	,,	3
Cigarettes	Mille	52,250
Oil, Lubricating	Galls.	24,795
Oil, Unclassed	,,	2,743
Dyes, Aniline, Pkgs. 18	Hk. Tls.	4,526
Machinery	Hk. Tls.	11,123

S. S. Empress of Asia, May 21.

To Scranton.

Silk, Raw, Steam Filature:

White, Shanghai, Bls. 10	Pls.	10.19½

Silk, Raw, Filature:

Wild, other Ports, Bls. 5	,,	5.06½

To Darby.

Silk, Waste:

Other Ports Bls. 66	,,	200.43

To Pittsburgh.

Carpets	Hk. Tls.	196

To Baltimore.

Straw Braid, White	Pls.	26

To Chicago.

Silk, Raw, Filature:

Wild, other Ports, Bls. 130	Pls.	131.07

To New York.

Silk, Raw, Steam Filature:

White, Shanghai, Bls. 10	,,	9.98

Silk, Raw, Re-reeled:

White, other Ports, Bls. 162	Pls.	163.65

Silk, Raw, Filature:

Wild, other Ports Bls. 246	,,	247.80

Silk, Waste:

Other Ports, Bls. 1	,,	2.18
Silk Piece Goods	,,	2.13
Silk, Pongees, Shantung	,,	1.93
Brass Cymbals	,,	13
Chinaware, Coarse	,,	121
Chinaware, Fine	,,	116
Egg, Yolk, Dried	,,	17
Hair, Horse	,,	14
Intestines, Pigs,' Salted.	,,	227
Intestines, Sheep's	,,	108
Straw, Braid, White	,,	89
Straw Braid, Mottled	,,	33
Skins, Dog	Pcs.	8,075
Skins, Rabbit	,,	12,797
Skins, Kid	,,	2,500
Skins, Raccoon	,,	5,000
Skins, Weasel	,,	10,200
Skins, Weasel, with Tail	,,	36,820
Fans, Paper	,,	4,400
Umbrellas	,,	620
Musk	Taels	476
Carpets	Hk. Tls.	244

S. S. City of Birmingham, May 19.

To New York.

Antimony Oxide	Pls.	1,260
Antimony, Regulus	,,	5,292
Bristles	,,	349
Feathers	,,	104
Hair, Horse, Mans	,,	21
Hides, Buffalo	,,	231
Hides, Cow	,,	114
Intestines, Pigs,' Salted.	,,	24
Intestines, Sheep's	,,	16
Oil, Wood	,,	4,173
Wool, Sheep's	,,	26
Skins, Goat, Untanned.	Pcs.	44,643
Carpets	Hk. Tls.	877

To Boston.

Tea, Black, Kiukiang	Pls.	75
Tea, Black, other Ports	,,	5
Antimony Regulus	,,	420
Hides, Cow	,,	124

Outline for the Study of Current History, Finance and Commerce of China

by

H. F. MacNair, Ph. D.

Professor of History and Government, St. John's University

This outline, primarily for the use of middle schools and colleges, is based upon the Review for last week. It is not intended that the whole of the outline be used but that those topics be selected that are found to be adapted to the class.

1. International Affairs

Topic 1: American Comment on Chinese Banditry

References: Pp. 35-6.

Questions: 1. Why does the New York *Globe* think the situation a tragic one for China? 2. What balm for her wounded face can China derive from the Herrin outrage? 3. Explain how the Lincheng outrage might be attributed to a diplomatic cause as the New York *World* thinks. 4. What is said as to China's returned laborers from France? 5. Why does Dr. Sze think China cannot be held responsible for the bandit affair? 6. What reasons are advanced for doing away with the Tuchuns in China? 7. What is the attitude taken by the Springfield *Republican*? 8. What does the New York *Post* say about Yuan Shih-kai? Do you agree? 9. Do you think China has been retrograding since the Washington Conference? 10. What reasons can you give for China's disappointment at the outcome of the Washington Conference? 11. Can you tell exactly what China gained by the Washington Conference? (For material on this subject see recent works of Willoughby, Buell, Hornbeck, and the U. S. Senate Document dealing with the Conference.

Topic 2: Intervention and the Situation in China

References: Pp. 37, 38

Questions: 1. Who are Messrs. Ting and Quigley? 2. What is the point of view of the first-named? 3. What is the meaning in International Law of the term "Intervenion"? 4. Define Japan's Monroe Doctrine for Asia. 5. What is the purpose of Intervention? 6. Has intervention ever occurred in China? Explain. 7. What underlying reasons are stated why men from all countries travel and reside abroad? 8. Make a list of countries in which Chinese nationals are settled in considerable numbers. 9. Had the Chinese settled in foreign lands before the foreigners from the West came to settle in China? Explain. 10. To what conclusion does Dr. Quigley arrive? Do you agree with this? Why?

Topic 3: The Attack on the Japanese in Changsha

References: P. 54

Questions: 1. What was the cause of the attacks on the Japanese? 2. Why did the marines fire upon the crowd? 3. What were the results? 4. What is the present situation in Changsha? 5. Do you think the Chinese were correct in their action?

2. Domestic Affairs

Topic 1: Politics and Szechuan

References: Pp. 40-42, 44

Questions: 1. By whom was Chungking held at the time this article was written? 2. What was Hsiung Keh-wu's coup? 3. Why is he described as a man of action? 4. What can you say as to his military suport? 5. Compare this with the military support of the North. 6. Where is Liu. Hsiang at present? What position has he previously held? 7. Why is the situation so tense in Szechuan at present.

Topic 2: National Indifference to Banditry in China

References: Pp. 33-4,36.

Questions: 1. Analyse the thought expressed by the *Christian Science Monitor* on p. 36. 2. What is held to be the basic cause of the difficulties through which China is passing? 3. What chance did the Chinese of Shanghai recently have to show that they are not indifferent to affairs in the north? 4. Would you say that the recent "mass meeting" was a success? 5. How have the foreigners in Shanghai and other places in China shown their interest in the bandit outrages? Account for this.

Topic 3: Foreign Settlements as Political Asylums

References: Pp, 34-5

Questions: 1. When did the foreigners first settle in Shanghai? 2. When did the Chinese first flock to Shanghai in large numbers? Why? 3. Do these newcomers settle in the Chinese city of Shanghai or in the Foreign Settlements? Explain. 4. What is the Mixed Court, and what are its functions?

3. Finance and Commerce

Topic 1: Finance of the Government in Peking

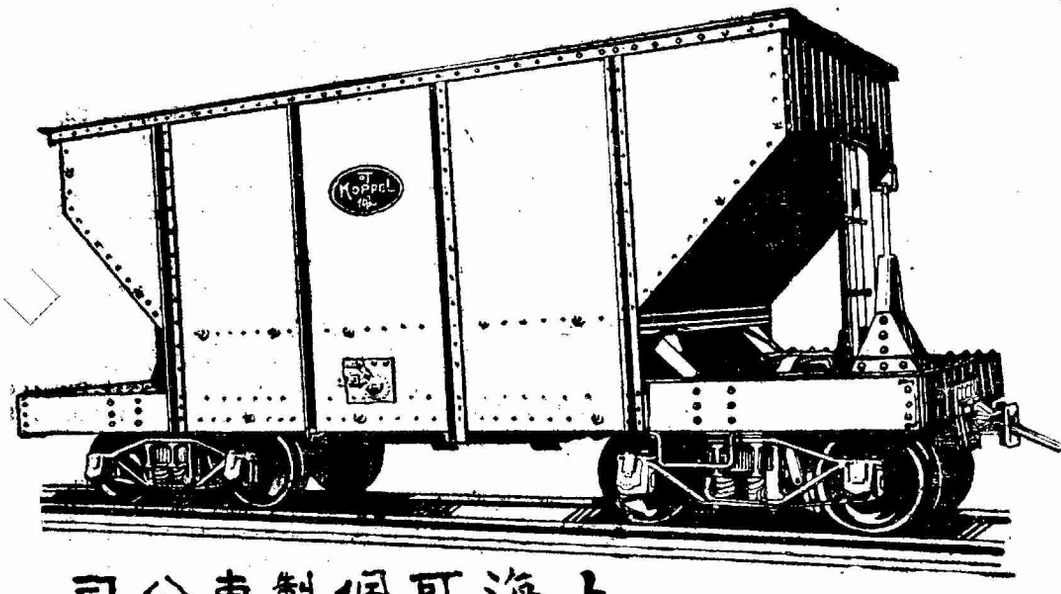
References: P. 54

Questions: 1. When is the Dragon Boat Festival, and what does it celebrate? 2. Why does it play a part in the financial situation? 3. Who is *now* Minister of Finance? 4. What was Mr. Chang Ying-hua's scheme for avoiding difficulties? 5. How is the salt surplus being used? 6. What is amortization? 7. What does the Consortium wish to wait for before making loans to China? Why?

Topic 2: World-wide Increase in Prices

References: P. 37

Questions: 1. How may it be shown conclusively that there has been within recent years a general increase in prices? 2. Does this hold true in China? 3. In what type of materials has there been a material increase in prices? 4. Why are prices advancing in the Orient? Explain carefully.



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Hopper bottom Coal cars supplied to a China Coal Mine.

KOPPEL INDUSTRIAL CAR & EQUIPMENT CO.

No. 2 Canton Road

SHANGHAI

25-108

In The United States Court for China

(Established by Act of Congress of June 30, 1906.)

JUDGE, Charles S. Lobingier.
U.S. ATTORNEY, Leonard G. Husar.
U. S. COMMISSIONER, Nelson E. Lurton.
CLERK, William A. Chapman.
OFFICE HOURS 10-12; 2-4.
U. S. MARSHAL, DISBURSING OFFICER, } Thurston R. Porter.
PRISON PHYSICIAN, DR. T. B. Dunn.
DEPUTY MARSHAL, Wm. Van Buskirk.
TIENTSIN:
SPECIAL DEPUTY MARSHAL, Harry V. Fuller.

All Notices, Announcements, Judgments, Orders and other Proceedings appearing in this department of THE WEEKLY REVIEW may be accepted as authentic.

MOTION DAY.

All contested motions and demurrers will hereafter be heard on Mondays, beginning at 3 P. M.; provided notice thereof with proof of service on the adverse party or his attorney shall have been filed in the clerk's office by 1 P. M. of the preceding Saturday.

ADMISSION TO THE BAR.

Hereafter, applicants for admission to the bar of this court, whether previously admitted elsewhere or not, will be examined on the following:

1. Extraterritoriality, 25 Corpus Juris, 299—331.
2. Extraterritorial Cases.
3. Extraterritorial Remedial Code.
4. U. S. Rev. Stats., secs. 4083—4131 (Act of Congress of June 22, 1860, 12 U. S. Stats. at Large, Ch. 179).
5. China Court Regulations.
6. Act of Congress of June 30, 1906 (34 U. S. Stats. at Large, Ch. 3934).

BAR EXAMINING COMMITTEE: Nelson E Lurton. W. W. Blume. Roland S. Haskell.

Shanghai, China, January 2, 1923.

Minutes of Recent Proceedings

Hearings:

June 8, 1923. Cause No. 2188, Harold Russell v. L. C Publishing Co; testimony taken of H. Russell, R. T. Peyton-Griffin, J. W. Schoenfeld and S. A. Moss.
" 11, " " " 2015, Thacher v. Thacher; testimony taken of C. H. Williams; submitted.
" 11, " " " 1826, Leonard V. Lang v. Wilkins Bros & Co., Inc.; examination in supplementary proceedings of P. N. Wilkins; adjourned.
" 11, " " " 2188, Harold Russell v. L. C. Publishing Co.; argument; submitted.
" 12, " " " 1676, H. M. Skirek v. Getz. Bros. & Co. of the Orient, Ltd.; testimony taken of H. M. Shirek, Sung Yu Ching, Zee Chang Yung, P. Y. Angus and C. Reeves; submitted.
" 12, " " " 2204, In re application of James F. Jones for admission to the Bar; on report and motion.
" 12, " " " 2216, In re application of George Sellett for admission to the Bar; on report and motion.
" 12, " " " 2238, In re application of Wei Yuen Char for admission to the Bar; on report and motion.

BANQUE BELGE POUR L'ETRANGER, PLAINTIFF, v. MONTGOMERY WARD & CO., DEFENDANT.

(*Cause No. 1800; decided December 2, 1922.*)

SYLLABUS

(*By the Court*)

1. **Agency:** EVIDENCE. A document executed by a corporate manager reciting that certain goods, stored with the corporation "for account of" a third party, have been transferred to another's order, is *prima facie* evidence that the goods in question are in the corporation's possession tho not its property.
2. ID.: AUTHORITY. Where such manager is expressly authorized "to deliver merchandise shipped by the corporation to its customers" and to execute documents incidental thereto, the instrument in question is not *ultra vires* on its face, especially where it appears that at least part of said goods are held by the corporation for the purpose of delivery.
3. **Bailment.** A PLEDGEE who is entitled to certain goods by way of security for a loan of which pledgor has defaulted, may have judgment for the possession of such property but the alternative judgment for damages for failure of delivery will be limited to the unpaid portion of such loan.
4. **Pleading.** Such a judgment may be rendered under a prayer for general relief.

Messrs. Schuhl & Schoenfeld by Mr. Schoenfeld for plaintiff.
Messrs. Williams, Franklin & Faison by Mr. Faison for defendant.

LOBINGIER, J.:

This is an action to recover the alleged value of certain personal property claimed to have been held by defendant in storage for another party and subsequently transferred by the bailor to plaintiff which demanded possession from defendant and was refused. The instrument upon which plaintiff chiefly relies as evidence of the transfer is the following:

"May 9, 1921.

Banque Belge pour l'Etranger,
Shanghai.

Gentlemen:

The undermentioned goods, stored in our Godown C6 and 7 French Bund and 20 Museum Road, for account of the United States Import & Export Company, have been transferred to your order and will be delivered only on receipt of proper order from yourselves.

One case, 10 Bicycles, Mark. 157403¼.
Six cases, 60 Bicycles, Mark. 157403.
Four cases, 40 Bicycles, Mark. 157403½.
Seventeen cases, 200 dozen, Lanterns, Mark. 162872.
Forty-Seven Cases, 47 Steel Stoves, Mark. 166222.
Sixteen Cases, 18 Steel Stoves. Mark 171402.

Yours truly,
Montgomery Ward & Co.,
Frederick Tillson,
Mgr." (Ex. A)

It is admitted that Tillson was at the time, and had been for about a year, defendant's "agent and attorney-in-fact" in China. But it is alleged in the answer that he "had no authority either express or by implication to execute said transfer or receipt for on behalf of the defendant" (Par. 4); that the stoves therein described "were the property of the defendant" but that the remaining articles were not its property nor in its possession.

Various transactions between Tillson on defendant's behalf, and certain banks appear in the record. On January 6, 1920 (Ex. 3) and again on January 5, 1921 (Ex. 4) he pledged consignments of stoves to the Asia Banking Corporation to secure drafts. On March 15, 1921 defendant issued to Tillson a power of attorney (Ex. 2 trans. p. 26) authorizing him *inter alia:*

"to deliver merchandise shipped by the corporation to its customers in China* * * *

(Before the Commissioner)

June 9, 1923, Cause No. 2236, U. S. v. Roman Diokno; continued.
" 9, " " " 2237, U. S. v. M. Kelly; plea of guilty.
" 9, " " " 2234, U. S. v. H. B. Longfellow; plea of guilty; testimony taken of F. Bowerman.
" 9, " " " 2235, U. S. v. S. Henshaw Jee; testimony taken of Sung San Foo, R. A. Hutchinson and S. Henshaw Jee.
" 11, " " " 2236, U. S. v. Roman Diokno; testimony taken of Ma Ong Sang, W. B. Curtis, Jau Sai, Sung Siau San Ts; continued.
" 11, " " " 2158, P. Volkoff v. E. Burt; testimony taken of plaintiff.
" 12, " " " 2236, U. S. v. Roman Diokno; testimony taken of Roman Diokno.

Judgments and Orders:

June 6, 1923, Cause No. 2232, Garza v. Garza; order directing service by publication.
" 6, " " " 1826, Leonard Victor Lang v. Wilkins Bros. & Co.; order for defendant's examination.
" 11, " " " 1499, U. S. v. Shanghai Journal of Commerce; dismissal.
" 11, " " " 1626, U. S. v. Shanghai Journal of Commerce; dismissal.
" 12, " " " 2133, In re estate of Paul S. Reinsch, deceased; order allowing payment of certain claims.
" 12, " " " 2204, In re application of James F. Jones for admission to the bar; admitted.
" 12, " " " 2216, In re application of George Sellett for admission to the bar; admitted.
" 12, " " " 2238, In re application of Wei Yuen Char for admission to the bar; admitted.

(By the Commissioner)

June 9, 1923, Cause No. 2237, U. S. v. Kelly; sentence.
" 9, " " " 2234, U. S. v. Longfellow; discharged with caution.
" 9, " " " 2235, U. S. v. Jee; assessed costs.
" 11, " " " 2158, P. Volkoff v. E. Burt; judgment for plaintiff,
" 12, " " " 2236, U. S. v. Diokno; bound over to the U. S. Court for China for trial.

Assignments for Hearing:

June 19, 1923, 9:30 a. m., Cause No. 2183, Yang Wei Zau v. Philippine China Trading Co.
" 20, " 9:30 a. m., Cause No. 2180, Tshua Thang Jien v. American Express Company.
" 22, " 9:30 a. m., Cause No. 1856, Yu Fong S/S Co. v. Wm. Katz & Co.
" 26, " 9:30 a. m., Cause No. 1945, Chemische Fabrik Griesheim Elektron v. International Banking Corporation.

Miscellaneous Filings:

June 6, " " " 2206, Shanghai Hotels Limited v. A. P. Pattison; motion; summons issued.
" 6, " " " 2232, Garza v. Garza; summons issued.
" 6, " " " 1826, Leonard Victor Lang v. Wilkins Bros. & Co. Inc., affidavit; marshal's return of order.
" 6, " " " 1430, Shanghai Hotels, Ltd. v. E. Beeks; marshal's return of order.

And generally to do and perform each and every of the aforesaid acts and things, and to sign each and every document as aforesaid, in relation to the affairs and business of the corporation in China, which is necessary in order to accomplish the purposes herein mentioned."

On May 9, 1921 Tillson gave his own note (Ex. 3) for Taels 10,000.00 pledging in security articles recited in the document first above quoted and on July 16, 1921 he gave another note to plaintiff for Taels 18,000.00 secured by "delivery order issued by David Sassoon & Co. endorsed by" defendant. (p. 16) This note was afterward taken up and paid on defendant's behalf by its present manager who succeeded Tillson. (p. 15)

The note of May 9 was due on September 1. Tillson paid Taels 1,100.00 (Trans. pp. 9-11) but no more. On July 28, however, plaintiff wrote defendant as follows:

"Montgomery Ward & Co.,
Chicago, Ill.

Dear Sirs:

With reference to our authority for purchase of bills sent you last month under account of our Shanghai Branch for Thirty Thousand Dollars ($30,000), we would appreciate your informing us whether the Shanghai office of your esteemed firm is a separate American Corporation, or a branch of your firm.

Please also let us know whether your manager there, Mr. Frederick Tillson has full powers on behalf of your firm and whether his signature is engaging your firm as such.

We understand from our Shanghai office that they may eventually be called upon to deliver goods against Trust Receipt and for that reason they would esteem being in possession of the above required information.

Thanking you in advance, we are,

Yours very truly,
Banque Belge Pour L'Etranger,
New York Agency" (Ex. D)

To this defendant replied as follows;

"Banque Belge Pour L'Etranger, August 2, 1921.
67 Wall St.,
New York, N. Y.

Gentlemen:

We are in receipt of your favor of July 28th and are pleased to say that our Shanghai office is strictly a branch of this firm, and Mr. Frederick Tillson has power and authority sufficiently broad in its scope to act in our behalf, and his signature can be accepted engaging this firm.

Yours truly,
Montgomery Ward & Co.,
H. G. Henderson,
Foreign Credit Manager."
(Ex. C)

Accordingly on its due date an extension of payment to October 31 was granted for the note of May 9 and on the last named date a still further extension. On July 1, 1922 plaintiff began this action. Tillson's power of attorney having meanwhile been revoked and he, it is said, having left China.

The defense is based upon the contention that Tillson pledged defendant's property to secure this note and that, since the debt was a personal one, he had no authority to do so. The only portion of the property which defendant claims as its own is the stoves and the chief evidence which we have been able to find in support of defendant's claim of ownership is the following from the testimony (p. 25) of defendant's present manager:

Q. Those stoves are and were the property of Montgomery Ward & Co.?
A. Yes, they have never been paid for and turned over to any one else yet.

It will be seen that the question is a very leading one but that the witness instead of asserting title unequivocally, apparently means to say that the stoves were shipped here for sale to a customer who had not paid for them. Another of defendant's witnesses tells

,,	6,	,,	,,	2185,	Chung Foo Union Bank v. D. A. Duskin; marshal's return of alias summons.
,,	6,	,,	,,	1499,	U. S. v. Shanghai Journal of Commerce; motion to dismiss.
,,	6,	,,	,,	1626,	U. S. v. Shanghai Journal of Commerce; motion to dismiss.
,,	7,	,,	,,	2220,	Tsingtao Cold Storage Co. Ltd. v. L. H. Smith & Co ; marshal's return of summons; demurrer.
,,	7,	,,	,,	1906,	Tanjar Singh v. P. Bonifacio; affidavit of attachment.
,,	7,	,,	,,	1283,	In re estate of Louisa Ollerdessen, deceased; bond.
,,	7,	,,	,,	1215,	In re eatate of David D. Bassett, deceased; administrator's final report.
,,	7,	,,	,,	2229,	Central Garage Co. v. G. E. Young; marshal's return of summons.
,,	7,	,,	,,	2234,	U. S. v. Longfellow; complaint.
,,	7,	,,	,,	2235,	U S. v. Jee; complaint.
,,	8,	,,	,,	2236,	U.S.v. Diokno; complaint.
,,	8,	,,	,,	2237,	U.S.v. Kelly; complaint.
,,	8,	,,	,,	2133,	In re estate of Paul S. Reinsch deceased; inventory; application to pay certain claims.
,,	8,	,,	Corp'n ,,	36,	National Forwarding & Trading Corp'n; annual statement; agreement.
,,	8,	,,	Cause ,,	890,	In re estate of John Isadore Sanger, deceased; affidavits and approvals of division and sale.
,,	9,	,,	,,	2146,	Arthur Isler v. B. Powers; writ of execution issued.
,,	9,	,,	,,	2107,	F. W. Schlobohm v. F. Fernandez; marshal's return of writ of execution.
,,	9,	,,	,,	2222,	Andrews v. Andrews; marshal's return of summons.
,,	9,	,,	,,	2022,	In re estate of Frank P. Long, deceased; oath of administrator.
,,	11,	,,	,,	1032,	Belgian Trading Co. v. Neuss, Hesslein & Co.; plaintiffs' brief in opposition to defendant's motion to dismiss complaint.
,,	11,	,,	,,	2210,	L. Samarcq and R. Fermus v. Asia Banking Corporation; demurrer.
,,	11,	,,	,,	2074,	Ih Ho Chang v. Continental Trading Co. et al.; answer.
,,	11,	,,	,,	2101,	The Sun Company Ltd. v. Charles S. Paget; marshal's return of execution and restitution.
,,	12,	,,	,,	2186,	Sam Joe v. F. & E. Soter Corporation; reply.
,,	12,	,,	,,	2224,	R. Neumann v. F. Fernandez; answer.
,,	12,	,,	,,	2212,	Shailing H. Li v. M. I. Greenstone; marshal's return of summons.
,,	12,	,,	,,	2204,	In re application of James F. Jones for admission to the bar; report and motion.
,,	12,	,,	,,	2216,	In re application of George Sellett for admission to the bar; report and motion.
,,	12,	,,	,,	2238,	In re application of Wei Yuan Char for admission to the bar; report and motion.
,,	12,	,,	,,	2230,	In re Charles S. Keen's will; inventory.
,,	12,	,,	,,	2095,	Olivier & Co. v. The Kearny Co. Inc. et al.; marshal's return of writ of execution.

(pp. 34-36) of the United States Import & Export Co. which Tillson organized and to which stoves, bicycles and other goods were consigned. Since the stoves in question were consigned to that concern (p. 23) title would seem to have passed[1]; for, as we have seen, Tillson had express authority "to deliver merchandise"*** to its customers in China and no restriction is imposed for default in payment. Apparently he was given some discretion to extend credit. The document upon which plaintiff relies and which defendant's manager signed, describes the articles as "stored*** for account of the United States Import & Export Co."—*i. e.*, they were its property and nothing in the testimony above referred to or elsewhere found, seems sufficient to overcome that admission. Defendant produces no documents of title and as the present manager does not claim to have any personal knowledge of the transaction, nor even to have been in China when it occurred, (p. 27) we do not think it can be said that defendant has met the burden of proving its allegation of ownership.

1. Cyc. XXXV, 305.

(To be continued next week)

IN THE UNITED STATES COURT FOR CHINA

In re Last Will and Testament of GEORGE F. FITCH, Deceased. | Cause No. 2118 Estate No. 494 NOTICE

Pursuant to an order of said Court, notice is hereby given to all persons having claims against the estate of the above named deceased, to present the same with vouchers to the undersigned on or before November 26, 1923, and all persons owing debts to said deceased are hereby notified to make payment of the same in due course to the undersigned.

ALICE R. FITCH,
Executrix,
61, Range Road,
Shanghai, China.

May 26, 1923.

In the United States Court for China

AGNES MARIA GARZA, Plaintiff. vs. EDWARD REIOS GARZA, Defendant. | Cause No. 2232 Civil No. 814 SUMMONS

The President of the United States of America

To the United States Marshal for China and his Deputies—*GREETING:*

You are hereby commanded to serve this summons and a copy of the Petition in the above entitled action upon the defendant—

Edward Reios Garza,

if found within the jurisdiction of this Court and to notify him to be and appear before this Court on or before the sixtieth day after service hereof to file his written answer on oath.

(SEAL) WITNESS the HONORABLE CHARLES S. LOBINGIER, Judge of the United States Court for China, at Shanghai, China, June 6, 1923.

W. A. CHAPMAN
Clerk.

Excerpt from Regulations, Section 8: On proof of due notice, judgment by default shall be procured against any defendant failing to appear and file his written answer as required.

Shanghai-Nanking Railway Abridged Time Table.

Shanghai North to Nanking—Up (Main Line) **Nanking to Shanghai North—Down**

STATIONS	Local	Fast R.	Local	3rd & 4th Local	S.N.L. T.P.L. Express Mail	3rd & 4th	Local	S.N.L. T.P.L. Fast Express	Local	Fast Local	Local	Local	Night Express R. S.
Shanghai North d.		7.00	7.15	7.35	9.30	9.50	12.10	12.30		17.15	17.45	19.35	23.30
Nansiang ... ... d.		7.28	7.45	8.03	—	10.31	12.41	12.58	15.25	17.47	18.15	20.05	0.02
Soochow ... ... d.		8.59		9.41	11.14	12.53		14.43	16.01	19.39			1.39
Wusih ... ... d.	7.00	9.59		10.44	12.02	14.12		15.38	18.24	20.36			2.38
Changchow ... d.	8.14	10.56		11 41	12.49	15.28		16.38	19.34	21.38			3.42
Tanyang ... ... d.	9.30	11.52			13.38	16.28		17.38					—
Chinkiang ... d.	10.31	12.49			14.22	17.34		18.33					5.34
Nanking ... ... a.	12.30	14.21			15.43	19.35		20.02					7.20
Pukow ... ... d.					19.10			21.00					
Hsuchowfu ... d.					—			5.08					
Tsinanfu ... ... d.					—			13.16					
Tientsin Central a.					—			—					
Do. d.					23.52			21.20					
Tientsin East.. a.					0.02			—					
Do. d.								22.05					
Peking ... ... a.								1.30					

STATIONS	Local	Fast Local	Local	Local	Fast R.	3rd & 4th Local	3rd & 4th	Fast R	Local	Local	Express R.	Local	T P L Mail
Peking d.													—
Tientsin East .. a.													—
Do. d.													14.35
Tientsin Central a													—
Do. d													—
Tsinanfu .. ... d.													—
Hsuchowfu ... d.	—												—
Pukow ... a													18.49
Nanking ... d.					7.40		8.10	11.05			15.50	16.15	
Chinkiang ... d					9.20		10.25	12.54			17.29	18.27	
Tanyang ... d.					9.57		11.21	13.36			18.03	19.26	
Changchow ... d.			7.10		10.59	12.00	12.44	14.32			18.57	20.46	
Wusih ... ... d.		7.20	8.22		11.59	13.02	14.07	15.33			19.43	21.52	
Soochow ... d.		8.21	9.39		12.54	14.02	15.25	16.31			20.32		
Nansiang ... ... d.	8.15	10.33	11.34	13.00	14.33	16.03	17.45	18.18	18.40	20.35	—		
Shanghai North a	8 42	11.00	12.05	13.30	15.00	16.30	18.20	18.45	19 13	21.05	22.00		

Woosung Forts to Shanghai North—Up (Branch Line) **Shanghai North to Woosung Forts—Down**

Woosung Forts d.	6.45	8.15	9.40	11.05	12.30	13.55	15.20	16.45	18.10	19.35	21.00	22.25	23.50	1 15	Shanghai North d.	6.00	7.30	9 00	10.25	11 50	13 15	14 40	16.05	17.30	18.55	20.20	21.45	23.10	9.35
Kiangwan ... d.	7.10	8.40	10.05	11.31	12.55	14.20	15.46	17.10	18.35	20.00	21.25	22.50	0.15	1.40	Tientungan d.	6.05	7.35	9.05	10.30	11.55	13.20	14 45	16.10	17.35	19.00	20.25	21.50	23.15	9.46
Tientungan ... d.	7.16	8.46	10.11	11.37	13.01	14.26	15.52	17.16	18.41	20.06	21.31	22.56	0.21	1.46	Kiangwan d.	6.12	7 42	9.12	10.37	12.02	13.27	14.52	16.17	17.42	19.07	20.32	21.57	23.22	9.47
Shanghai North a.	7.20	8.50	10.15	11.41	13.05	14.30	15.56	17.20	18.45	20.10	21.35	23.00	0.25	1.50	Woosung Forts a.	6.35	8.06	9.35	11.00	12.25	13.50	15 15	16.40	18.05	19.30	20.55	22.20	23.45	1.10

R. Restaurant Cars. * These additional trains run each Saturday and Sunday S. Sleeping Cars

Shanghai-Hangchow-Ningpo Railway Abridged Time Table.

Shanghai North to Zahkoo—Down (Main Line) **Zahkoo to Shanghai North—Up**

STATIONS	Local	Ex-press R.	2nd 3rd & 4th	Fast R.	Local	Local	Night Ex-press R.
Shanghai North.....dep.	..	8.00	9.00	13.20	15.45	..	19.15
Jessfield.....dep.	..	8.15	9.16	13.36	16.05	..	19.30
Siccawei.....dep.	..	8.21	9.23	13.43	16.13	..	19.36
L'hwa Junction.....dep.	..	8.35	9.40	14.00	16.30	..	19.50
Shanghai South .....dep.	..	*8.06*	*9.05*	*13.25*	*15.46*	*18.00*	*19.20*
Lunghwa Junction .....arr.	..	*8 21*	*9.23*	*13.43*	*16.03*	*18.18*	*19.38*
Sungkiang .....dep.	..	9.14	10.50	14.46	17.42	..	20.29
Kashai .....dep.	..	10.01	11.57	15.43	18.47	..	21.16
Kashing.....dep.	7.25	10.31	12.40	16.16	——	..	21.46
Yehsah .....dep.	8 19	11.02	13.32	16.56	----	..	22.17
Changan .....dep.	9.25	11.36	14.23	17.40	---	..	22.51
Hangchow .....dep.	11.00	12.30	16.00	18.50	---	..	23.45
Zahkou .....arr.	11.25	12.45	16.30	19.10	---	..	24.00

STATIONS	Local	Local	Ex-press R.	Local	2nd 3rd & 4th	Fast R.	Local	Night Ex-press R.
Zahkoo ..... d.	..	..	7.15	..	8.40	*13.20*	*15.35*	18.00
Hangchow ..... d.	..	..	7.40	..	9.15	13.50	16.10	18.25
Changan ..... d.	..	..	8.29	..	10.45	15.00	17.45	19.14
Yehsah ..... d.	..	..	9.00	..	11.53	15.37	18.45	19.45
Kashing ..... d.	..	7.30	9.39	..	12.50	16.24	..	20.24
Kashai ..... d.	..	8.02	10.02	..	13.26	16.52	..	20.46
Sungkiang ..... d.	..	9.15	10.52	..	14.42	17.49	..	21.42
Lunghwa Junction.... d.	*8.37*	*10.37*	*11.37*	*15.57*	*16.07*	*18.48*	..	22.17
Shanghai South ..... a.	*8.56*	*10.56*	*11.56*	*14.16*	*16 26*	*19.00*	..	22.38
L'hwa Junction .... d.	..	10.34	11.32	..	15.50	18.40	..	22.23
Siccawei ..... d.	..	10.43	11.40	..	15.59	18.49	..	22.32
Jessfield ..... d.	..	10.51	11.46	..	16.06	18.56	..	22.38
Shanghai North.... a.	.	11.05	12.00	..	16.20	19.10	..	22.53

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In The United States Court for China

(Established by Act of Congress of June 30, 1906.)

Recent Decisions

Nov. 18 — Dec. 5, 1922

F. J. SCHUHL (SUING AS TRUSTEE FOR SHUN KWAN DING) v. ZAN DONG KYI.

(Continued from last week)

These are some of the general views of the Courts as to what should guide the minds of the judges on this point.

We now come to the question of acquiescence, Thesiger, L. J., says:

> "The Court will rarely interfere to pull down a building which has been erected without complaint." [8]
>
> "Acquiescence may be an entire bar to relief, or it may be a ground for inducing the Court to act under the powers of Lord Cairns Act." [9]
>
> "One point for consideration, however, has always been whether the man who did the act knew that he would do the injury. Where a person has a legal right, it could be destroyed by his acquiescence, that is, if he stood by and allowed his neighbours to incur expenditure in doing what he knew would injure his property. In a case where acquiescence is alleged, the plaintiff must use reasonable diligence in warning the party who is encroaching, or destroying plaintiff's rights, that he objects." [10]

It remains to apply the *dicta* of these eminent lawyers, (all those that I have cited are among the most eminent judges who have sat on the Bench) to the present case I am of opinion that the plaintiff did not use "reasonable diligence" in warning the defendant that he was encroaching. He buys his land on August 4, 1921, the wall is already some considerable height. The plaintiff states that he did visit and inspect his land from time to time, but he obviously did not measure or compare the land he had bought with the plan attached to the title deeds, till well into the next year. He saw the wall being built, and his attention was conspicuously called to the building by reason of the scaffolding being put on his own land. He makes no effort to see whether any encroachment was being made by the defendant's contractors, and not till the houses (as well as the wall) are built and occupied does he inform the defendant that he has encroached on his land. In fact through not using reasonable diligence in acquainting himself with the area and extent of his holding he stood by and allowed his neighbours to incur the expense of building up the houses attached to the wall. It does not appear to me that the defendant has acted in a high handed manner or in an unneighbourly spirit. When the plaintiff complained about the scaffolding, the defendant went and saw the plaintiff and asked for a month in which to complete his wall and remove his scaffolding, which was granted by the plaintiff without a word about encroachment. I consider that I am justified in coming to the conclusion that the defendant had no knowledge whatever that in erecting his building he was doing the plaintiff an injury. He had measured out his land by his Chinese plan and in accordance with the boundary stones. If the Chinese plan was incorrect, and also the boundary stones, there is nothing to show that the defendant had any knowledge of it. He appears to have acted quite innocently throughout. There is no doubt that the defendant has incurred considerable expenditure, while at present the plaintiff's land is a parcel of waste ground. But the plaintiff says he intended to build Chinese houses on his strip of land and that the loss of the 10 inches makes a difference of 25% per annum in the rent of the houses he can now build compared to what he could have built without the loss of the 10 inches. A plan of the proposed buildings is put in which shows 27 houses to be built on the site. I cannot avoid thinking that the idea of building these houses is to some extent an afterthought and not unconnected with a desire to impress the Court with the damage done to the property. The scheme did not originate till long after the knowledge of the encroachment came to the knowledge of the plaintiff. Mr. Davis states he was not called upon to draw up the building plans until "two or three months before the hearing," which was October 24, 1922, "that is not till after the survey," the survey is dated August 18, 1922.

The plaintiff states that the encroachment will cause him a loss of something like 25% per annum on the buildings which now can be built, if the wall remains. Namely that the reduced size of the houses will enable them to be let for only $8 a month instead of $9. This is corroborated by Mr. Davis, the architect called on behalf of the plaintiff. The plaintiff also alleges that to build the $8 houses would not be a good investment. The defendant's expert witness states that the full sized houses can still be built, by building them flush with the encroaching wall. This is denied by the plaintiff's expert witness. The conclusion I have come to in this case is:

That it is a case where the proper use of my judicial discretion is not to grant an injunction and thereby compel the defendant to pull down his wall and houses. But there is no doubt that the defendant has committed a legal wrong and the plaintiff is entitled to damages. It is no easy matter to arrive at the proper figure which I should allow. It has to be considered that a wrong has been done, but whether that wrong has rendered the land valueless as stated on behalf of the plaintiff I am unable to say.

The course I am going to pursue is to state what I consider a fair price, on the evidence placed before me, for the defendant to buy the land outright. In assessing this price I am taking into consideration that the defendant would have to pay a higher price for this land than he otherwise would have had to do had no wrong been committed. The prices mentioned as being the value of the land by various parties in the course of the hearing are:—Tls. 8,500, Tls. 6,500, Tls. 3,000, Tls. 12,000. On considering these prices and the reasons given for the different opinions, I am of opinion that a fair and reasonable price for the land under the circumstances is Tls. 7,500. I merely state this as my opinion of the value of the property, for the purpose of perhaps facilitating an agreement between the parties, in the event of the plaintiff's statement being correct that the land is valueless to him. My judicial duty being merely to assess the damages. In assessing the damages, I accept, in the absence of any evidence to the contrary that the 27 houses were to be built and that the loss on the houses would be $324 a year. In England one calculates on the basis of 15 or 20 years, but I have taken the opportunity to enquire as to the custom in Shanghai and I find it is usually 10 or 12 years. I therefore propose in this case to assess the damages at $3,888 which covers the loss on the rentals of the proposed houses for 12 years.

Therefore I find for the plaintiff for $3,888 and costs but do not grant an injunction.

8. Gaskin v. Balls, 13 Ch. D. 329.
9. Fry, L. J., in Sayers v. Collyer, (1895) 28 Ch. D. C. A. 110.
10. Sir George Jessel, M.R., in Smith v. Smith, L.R. 20 Equity, 500 (1875).

LI HENG CHIU, PLAINTIFF, vs. OSCAR WAGMAN, DEFENDANT.

(Cause No. 1853; decided November 22, 1922.)

SYLLABUS

(By the Court)

1. **Pleading.** The rule applied that in the absence of a reply, new matter in the answer will be deemed denied.
2. **Sales.** WARRANTY. There is ordinarily no implied warranty of quality in sales.
3. ID. EVIDENCE, examined and found insufficient to show express warranty, actionable breach, or loss.

Messrs. Richard T. Evans and Isador A. Landesman for plaintiff.

Theodore E. Simmang, Esq., for defendant.

LOBINGIER, J.:

This is an action to recover on an account admitted by defendant to be due from him to plaintiff. The account shows a balance of Mex. $9,631.00, but the complaint alleges a payment of Mex. $2,000.00. Defendant, however, after admitting substantially all the

averments of the complaint, pleads a set-off alleged to arise from losses incurred by him in the sale of goods purchased from the plaintiff and due as he claims to defects in the quality "which plaintiff warranted and guaranteed to defendant would be fully up to the sample submitted and to the lengths desired." (par. 6) We find no reply, but under the rule[1] prevailing in this Court new matter in the answer will be treated as denied even in the absence of a reply.

The burden rests upon defendant to prove his set-off and this requires, in the case at bar, that he show by a preponderance of the evidence (1) that he did purchase the goods in question from plaintiff, (2) the warranty (3) its breach and (4) the losses therefrom.

(1) Plaintiff denies that he was the vendor of these goods and testifies that he was merely a broker, selling them to defendant on 3% commission. In this he is corroborated and the account (Ex. 1). whose correctness defendant admits and which contains the commission item, and by the witnesses Fei Hsing Hsun and Max Herskovitz, both of whom state that he acted as commission man or broker. The former testifies that the contract was between defendant and E. Jee & Co., was in writing, that the witness saw it signed and that defendant received a copy. This testimony is not denied by defendant. Indeed he speaks of the "packing particulars" indicating that at least some features of the contract were in writing. But no document is produced nor is its absence accounted for. The alleged "purchase by defendant from plaintiff" has no support except the former's own testimony and the preponderance is clearly against him.

(2) But if plaintiff were the vendor he would not thereby have assumed any *implied* liability for the quality of these goods.

> "In the absence of fraud on a sale of goods without warranty or particular agreement as to quality, the seller is not answerable for defects, whether obvious or latent, the rule of *caveat emptor* applying in all its force." [2]

Nor, if he was a broker, was there any *implied* guaranty on his part of quality and genuineness. [3] Was there, then, an express warranty of quality? Defendant's testimony on this point was as follows:

> "At the end of 1920 I purchased about 200 piculs of horse hair from Li Heng Chiu as these goods were ready for shipment sometime in the spring of 1921. I was unable to go to Mukden to examine them. But before I started into ship the goods he (plaintiff) brought a sample and guaranteed the goods would be up to sample."

Apparently defendant means to say that plaintiff gave this "guaranty" after the contract of purchase had been made and partly performed and that the "guaranty" was therefore independent of said contract. If so, it required a new and separate consideration, [4] which is not shown.

(3) But if such a "guaranty" had been given the burden would still rest upon defendant to prove its breach. He claims to have seen some 50 of the 210 cases when delivered and declares that they were "not up to sample." When pressed for particulars he stated that "the quality was supposed to be pure tail hair and they contained manes." He does not, however, testify that plaintiff expressly undertook or guaranteed to furnish only tail hair but merely that they were "supposed to be" such. Proof of a breach of warranty should be more explicit than that.

Defendant also speaks of the "packing particulars" not being complied with as to length, colors, etc., but he does not claim that these formed part of the alleged "guaranty." Indeed the undisputed evidence is that they were not prepared by plaintiff himself.

Defendant claims not to have discovered these defects until the goods were unpacked at Philadelphia in August, 1921. Yet it was not until six months later that he notified plaintiff (Ex. A) of the alleged defects. Moreover it appears from evidence offered by himself that defendant did know of defects long before August for he introduces (and thereby confirms) a letter dated June 19, 1921, from a third party reading

> "I was surprised to hear from Li Heng Chiu that you think the Horse hair is not quite up to sample; let me hear more about that matter from you." (Ex. F)

And notwithstanding such knowledge, defendant received plaintiff's statement of account (Ex. 1) dated two days later, which defendant says is correct and he does not claim to have made any objection because of the defects. We cannot regard the evidence as sufficient to show a breach of warranty.

(4) Even were the breach proved there is hardly competent evidence of resulting loss upon which to base a judgment. Defendant offers only two of his own letters, which are clearly self-serving and inadmissible, and a statement from his brother purporting to be an affidavit but not constituting competent evidence. On the other hand, defendant introduces a letter (Ex K), appearing to have been written to defendant's brother by the purchaser of the goods which not only contains no complaint but indicates a desire to purchase more.

On the whole, we are unable to find that defendant has proved his set-off by a preponderance of the evidence, and as the original account is undisputed we must find that there is due plaintiff from defendant the sum of Mexican $7,631.00, Tientsin currency, for which amount together with his costs judgment is accordingly rendered in favor of the plaintiff and against the defendant.

W. A. RUMPF, PLAINTIFF, v. W. E. MALONEY & CO., DEFENDANT.

(*Cause No. 1732; decided November 23, 1922.*)

SYLLABUS

(*By the Court*)

1. **Sales.** DELIVERY, where no time is fixed, may be delayed for unavoidable obstacles.
2. ID.: Id. DAMAGES. Where a vendor enters into several contracts, some fixing the time of delivery and others not, evidence of losses by the vendee for failure to deliver within a certain time is insufficient without showing to which contracts the losses are chargeable.

Messrs. Richard T. Evans and Isador A. Landesman for plaintiff.
Theodore E. Simmang, Esq., for defendant.

LOBINGIER, J.:

Plaintiff sues to recover a balance of Tls. 8,002.90 alleged to be due on advances made by him to defendant on contracts for the purchase of walnuts and a further sum of "20,000.00 more or less" U. S. currency by way of damages for the non-performance of said contracts. In his answer defendant avers that the alleged balance "is an error" but in his brief he admits liability for Tls. 5,953.93. He denies the averment of damages and alleges "that any failure of delivery was due to no fault of defendant."

The evidence consists largely of correspondence between the parties which is quite voluminous, extending over a considerable period. The usual course of dealing seems to have been for the parties to arrange terms orally after which each wrote to the other "confirming" the agreement, each letter constituting, in effect, both an offer and an acceptance. To finance the enterprise, it was customary for plaintiff to furnish defendant with certain sums to be applied on the purchase of specific quantities of walnuts (see Ex. BZ) tho sometimes (*e. g.*, Ex BQ) defendant sought advances from plaintiff to cover consignments already purchased. The transactions were treated as contracts but not in all instances was the time of delivery specified. Thus in one contract for 800 bags (Ex. Q., 21) and another for 1000 cases (Ex. AG) such time was left undetermined. In such cases the rule is that unavoidable obstacles, *e. g.*, a "strike" by others than the vendee's employes, will excuse non-delivery. [1] That there were such obstacles here seems apparent from evidence introduced on behalf of plaintiff himself in the form of letters from defendant which, tho not admissible in plaintiff's favor, may be received against him because self-disserving. [2] Thus on Nov. 18, 1921, defendant wrote:

> "The present Chinese banking crises, together with other causes in failure of contracts to be fulfilled within time limit has brought on a very serious state of affairs with us and it will be necessary for the writer to have a conference with you immediately.
>
> The closure of or rather the suspension of payment of the Chinese banks has left us high and dry with the exception of the cargo we have in hand, amounting to about ten thousand dollars in all and unless we can come to some arrangement, we will be absolutely held up till the native banks begin to pay again." (Ex. AM)

1. Steele v. American Trading Co., I Extrater. 973
2. Cyc. XXXV, 215.
3. Corpus Juris, IX, 535, 536.
4. Id. XXVIII, 915.

1. Anson on Contracts, (Huffcutt's ed.) 397 note. Cf. Everett v. Swayne & Hoyt, I Extrater. 607.
2. Corpus Juris, XX, 305.

On Nov. 24 defendant wrote to plaintiff:

> "Much to our regret we are obliged to inform you that in consequence of failure on the part of the Chinese dealers in fulfilling their contracts with us, it will not be possible to complete the shipments in the time anticipated, and we would therefore request you to make an extension of one month on the original time in respect of the shipments concerned.
>
> We are doing everything possible to bring pressure to bear on the delinquent parties and hope thereby to secure satisfactory delivery of cargo henceforth.
>
> Our Mr. Maloney who is at present indisposed through illness, has already taken the matter up with the Chinese merchants and Consular authorities, and will communicate with you at greater length immediately he recovers sufficiently to resume business activities.
>
> Trusting you will fully appreciate the conditions and circumstances which have brought about this unavoidable delay," etc. (Ex. AR)

Apparently both of the above were written in response to a letter (Ex. AI) addressed to "Mr. & Mrs. Maloney" which plaintiff was allowed to introduce, and in which, thru his attorney in fact, *plaintiff said:*

> "It certainly is very important that we should have some conversation with regard to business.
>
> By putting things off will only go to brand me and the firm as dishonest people as well as unreliable.
>
> If you are afraid that you cannot make or purchase goods so that I from my side cannot ship, for God's sake, speak out and I will accept every cent's loss even your part."

This appears to be a recognition of the obstacles if not an actual waiver of the damages.

It seems clear, then, that as to the 800 bags and 1000 cases there is not a sufficient basis for an award of damages. As plaintiff, in his brief claims a deficit of only 1161 bags and 2864 cases it is clear that defendant's failure to deliver by Dec. 31, 1921 could not be charged against more than 361 bags and 1864 cases. Whether these are the items for which plaintiff claims to have paid other parties, does not appear; they might have been paid for those which defendant was not obliged to deliver by the time plaintiff's consigness desired them. The same observation applies to the loss from settling exchange. Assuming that this would be a proper item of damages if proved, we are unable to determine from this record whether such loss occurred in connection with contracts in which the time of delivery was fixed or with the other contracts or with both. In the latter event there would seem to be no way of apportioning the damage. In fact the entire evidence as to the alleged damage is meager and unsatisfactory. Plaintiff's agent testifies to have given notes to satisfy claims for damages but we find no competent evidence from which we may determine whether these claims were well founded nor whether it was legally necessary to give the notes. At any rate they had not been paid at the time of the trial. Letters from the home office are, of course, mere hearsay and would not support a judgment for damages and we are forced to the conclusion that such judgment would not be upheld by the appellate court.

As to the claim for advances, however, we think the preponderance is with plaintiff. He presents a statement of advances (Ex. CQ) showing a balance due him of Tls. 8,002.90 which he testifies is correct and which he states defendant "admitted owing." Defendant in testifying did not deny having made such admission. He says that the amount is not correct and thinks that it is approximately Tls. 7,274.81 —about Tls. 750.00 less—but in view of the detailed statement, which defendant makes no attempt to correct, and the undisputed evidence of admission we consider plaintiff's showing sufficient.

It is accordingly considered and adjudged that plaintiff have and recover from defendant the sum of Tls. 8,002.90 together with costs.

CHINESE MARITIME CUSTOMS, PLAINTIFF, v. AMERICAN-ORIENTAL BANKING CORPORATION, DEFENDANT.

(*Cause No. 1333; decided November 28, 1922.*)

SYLLABUS

(*By the Court*)

1. **Foreign Judgments.** The judgment of a competent court of a sister nation is *prima facie* valid and is impeachable only on a clear showing.
2. Id.: Courts. The International Mixed Court at Shanghai has been recognized by this court as such a tribunal.
3. Id.: Garnishment. A debtor, amenable to this court's jurisdiction is subject to garnishment proceedings by the holder of such a judgment although the one against whom it was rendered is not so amenable.
4. Id.: Id. In this jurisdiction a judgment may be rendered directly against a garnishee.
5. Id.: Mere questions of procedure are concluded by such a judgment.

Messrs. White, Cooper, Master & Harris for plaintiff.
Messrs. Davies & Bryan for defendant.

Lobingier, J.:

This is a proceeding to enforce, by way of garnishment in this court, a judgment for Taels 1,000.00 recovered against a Chinese defendant in the International Mixed Court at Shanghai. The petition attaches a copy of the pleading upon which the judgment was obtained and a certified copy of the judgment is produced in evidence. It also appears that notice by publication was given the judgment defendant who is claimed to have absconded.

The tribunal which rendered this judgment has already been recognized in this forum as "a competent Chinese Court"[1] with jurisdiction over Chinese. Indeed this has been formally recognized by treaty. "The *Chinese government* has established at Shanghai a Mixed Court" recites the Chefoo Convention[2] of 1876, to which the United States became a party in 1880.[3]

It is true that the Chinese Supreme Court has recently said:[4]

> "The Mixed Court at Shanghai was created in accordance with the Regulations of 1869 (in the Foreign Settlement) at Yang King Pang, providing for the appointment of officials for joint trials and was thus a special institution arising out of treaty provisions. This court exercised its functions, civil and criminal, in accordance with treaty provisions within Chinese territory by virtue of Chinese judicial power. Its judgments therefore could not be considered those of a foreign court. This is beyond doubt. But in 1911 the Consular Body at Shanghai interposed and took control of the Mixed Court and the law as administered since then cannot be said to be in accordance with the original treaty provisions. In fact the operation of these provisions was interrupted by said act and the Chinese Government has never explicitly recognized the intervention as valid by international usage. Therefore, the decisions of the Mixed Court in the interim cannot be regarded as having been made by a Chinese court founded on treaty. This is also beyond doubt. Whether the court be regarded as an institution with absolutely no judicial power derived from Chinese law, or as an entity assuming *de facto* jurisdiction *ad hoc*, it is impossible to regard the decisions thereof as having any legal effect. A case therefore which has been decided in the Mixed Court, may be tried by judicial courts of competent jurisdiction elsewhere in China, and a plea of *res judicata* cannot be entertained. As to decisions in criminal cases altho those (of the Mixed Court) do not come under the provisional Criminal Code, Art. 6 in respect to foreign decisions, the accused is to be considered as not having had a trial by a court of competent jurisdiction and the public procurator may prosecute such cases in order to maintain the dignity of the law and for the public good."

It will be seen, then, that in the Supreme Court of China, the judgments of the Shanghai International Mixed Court are "not considered those of a (to the former) foreign court." Internationally, therefore, it must be to China a domestic tribunal and to the outside world, that of a sister nation. The reason given for questioning its judgments in the Supreme Court of China is, virtually the lack of complete Chinese control; it is not denied that the Shanghai Court is, in origin and equipment as well as in the law which it administers, a Chinese tribunal. Moreover it would hardly seem that the specific provisions of an international treaty could be set aside in that way.

Viewing the Shanghai Mixed Court as that of a sister nation its judgments are to be treated as *prima facie* valid and impeachable only upon a clear and positive showing.[5] In this instance no attempt has been made to impeach the judgment. In fact the judgment defendant has not appeared at all tho as already stated notice was given by publication.

The reason for pursuing the matter in this court is found in the averment that the present defendant, which is subject to this court's jurisdiction, is indebted to the judgment defendant and the purpose of this proceeding is to sequester and apply on said judgment the amount of the alleged indebtedness. In other words this is what is known as a garnishment proceeding, *i. e.*, an action against a debtor's debtor. If the original judgment defendant were subject to this court's jurisdiction there would be no question regarding its propriety for such a proceeding is a very common one. The only unusual feature of the present situation is the fact that the judgment defendant is a Chinese and therefore not amenable to the jurisdiction of this court.

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1. Thayer, J., In re Barchet's Estate, 1 Extrater. 235. Cf. See the present writer's "International Mixed Court of Shanghai," A. B. A. Journal V, 1889.
2. Treaties between China & Foreign States. (Shanghai, 1908) I, 302, 303.
3. Id., 534, art. IV.
4. Appeal from Kiangsi, 16th day, 3rd month, 6th year Chinese Republic, No. 592, Vol. 2, p. 13.
5. Ritchie v. McMullen, 159 U. S. 235, 40 L. ed. 133, affirming 41 Fed. 502, 8 L. R. A. 268. Cf. Hilton v. Guyot, 159 U. S. 113, 40 L. ed. 95, reversing 42 Fed. 249; Cyc. XXIII, 1606.

After a somewhat prolonged consideration of the subject, however, we have reached the conclusion that this feature does not really alter the situation so far as the present proceeding is concerned. For the alleged debtor, which is subject to the court's jurisdiction, has answered admitting the amount of the indebtedness and consenting to the relief sought and since this is one of the jurisdictions where a judgment against a garnishee may be rendered directly,[6] independently of the principal action, we are not called upon to exercise any jurisdiction whatever as regards the Chinese judgment defendant. It is true that the indebtedness in question accrues to him; but no one questions the fact of the indebtedness nor its amount and the only action to which the judgment defendant could object is the application of the indebtedness upon the judgment. That objection however has been foreclosed by the rendition of the judgment itself which necessarily subjects the judgment defendant's property to its own satisfaction. Defendant, indeed, could take steps to impeach the judgment in this court, as for example on the ground of fraud, and to provide the opportunity for that procedure plaintiff was required to give notice to the judgment defendant. But no such showing has been made and the present defendant having consented to the application of the indebtedness it seems entirely regular to grant the relief sought.

Had the original action been instituted in this court there might have been some question as to the capacity of the plaintiff to sue. In other words it might have been questioned whether the action should not have been brought in the name of the Chinese Government rather than of a branch of its administration. That however is a question of procedure which appears to be concluded by the judgment itself.[7]

It is therefore considered and adjudged that plaintiff have and recover from the present defendant, the American-Oriental Banking Corporation the sum of Taels Sixty-nine and Fourteen one-hundredths (Tls. 69.14) and Mexican Dollars Nine Hundred Sixty-five and fifty-five one-hundredths (Mex. $965.55) which amount shall be paid into court and applied upon the said judgment rendered by the International Mixed Court at Shanghai. There will be no award of costs against the present defendant.

E. Y. KAMOROVSKY, PLAINTIFF, v. HARTFORD FIRE INSURANCE CO., AMERICAN FOREIGN INSURANCE ASSN., DEFENDANTS.

(*Cause No. 1606; decided December 5, 1922.*)

SYLLABUS

(*By the Court*)

1. **Insurance**. BAILMENT. Where a bailee insures the bailor's goods at the latter's request and upon his payment of the premiums, the property being described as held "in trust" etc., the proceeds of the policy in case of loss accrue to the bailor less any amounts due the bailee.
2. Id.: Id. PARTIES. In such case the bailor may sue the insured directly for the amount due the former under the policy.
3. Id.: Id. GARNISHMENT. A judgment creditor of the bailee, whose insolvency is admitted is entitled to have such portion of the proceeds as are due said bailee applied on the judgment.
4. **Stare Decisis**. The doctrine of The Chinese Maritime Customs v. The American-Oriental Banking Corporation reaffirmed.

Messrs. Williams, Franklin & Faison for the plaintiff.

Messrs. Dawies & Bryan by Mr. Dawies for the intervenor.

No appearance for defendant.

LOBINGIER, J.:

This is an action on a policy of fire insurance issued by the principal defendant in favor of a corporation known as the Russian Lloyd Steamship & Transport Company, on certain typographical machinery:

> "*All* The above being the property of the insured or held by them in trust, or on commission or on joint account with others and/or for which they are responsible, or sold and paid for but not delivered, stored or to be stored during the currency of this policy in the iron built and iron roofed one storied Godown of mixed construction known as Topaz Godown." (Ex. B)

During the life of the policy the insured property was damaged, an arbitration fixed the amount due on another policy leaving defendant's pro rata share as Yen 3,874.33 and the insurer in its answer alleges its willingness to pay the amount of the loss to the party enitiled thereto.

It is undisputed that plaintiff was the owner of the insured property, that the policy was taken out by his direction (Ex. C) and that he paid the premiums. It is well settled that under such conditions he is entitled to the proceeds of the policy less any amount due from him to the nominal insured.[1] The words "in trust" in such a policy as this are used "in a mercantile sense."[2] They do not mean "goods held in trust in the technical sense * * * but goods with which they were intrusted in the ordinary sense."[3]

The insurance on such goods though taken in the name of the bailee, is for the benefit of the owner, who is consequently the real party in interest and may sue the insured directly.[4] This is, consequently, not a case of reinsurance nor of a policy issued by the bailee itself, but merely one of insurance taken out by such bailee for the bailor's benefit.

As the bailee is not a party to this proceeding, and apparently makes no claim to the proceeds of the policy, there would be little need of elaborating upon the privity of contract between plaintiff and defendants were it not for the fact that a judgment creditor of the nominal insured sought and obtained the right to intervene in this cause by virtue of its judgment. In effect the intervenor, which is a Russian concern, seeks a garnishment of the proceeds of the policy to the extent of its judgment. But it is entitled to so much only as belongs to the nominal insured and the only competent evidence before the court on that point is plaintiff's admission that he owes the nominal insured the sum of Yen 950., presumably for storage and expenses connected therewith. Now the judgment upon which the intervenor relies was obtained against the nominal insured for the storage apparently of the goods in question. It would seem therefore entirely equitable to direct that so much of the amount in question as plaintiff admits is due the nominal insured should be applied on the intervenor's judgment. Such application is within the doctrine of a recent decision[5] of this court; for the judgment appears to have been rendered by a recognized and lawful Chinese tribunal and there is no suggestion of impeaching it. And while the judgment debtor is not subject to the jurisdiction of this Court the defendant, who admits owing the money, can be required to pay it to the party or parties entitled thereto. Such procedure not only avoids delay and circuity of action but in this case appears imperative by reason of plaintiff's averment of the nominal insured's insolvency and his testimony that the latter has done no business for a year aud a half.

It is accordingly considered and adjudged that the injunction heretofore granted restraining defendants from paying a part of said proceeds be dissolved and that plaintiff have and recover from defendants the sum of Yen 2,924.33 being the amount due on said policy of insurance less the sum of Yen 950, admitted by plaintiff to be due the nominal insured and which sum the defendants are adjudged to pay to the intervenor by virtue of its judgment against the said insured. There will be no award of costs to any of the parties.

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6. Act of Congress of Mar. 3, 1901, 31 U. S. Stats. at Large Ch. 854, sec. 467, 1098. Cf. Corpus Juris, XXVIII, 319.
7. Cyc. XXIII, 1610.

1. *Fed.* Calif. Ins. Co. v. Union Compress Co., 133 U. S. 387, 33 L. ed. 730, 736. Connecticut Mutual Life Ins. Co. v. Luchs, 108 U. S. 498, 27 L. ed. 800; Hooper v. Robinson, 98 U. S. 528, 25 L. ed. 219; Home Ins. Co. v. Warehouse Co., 93 U. S. 527, 23 L. ed. 868; The Sydney, 27 Fed. 119, 125; (appeal dismissed 139 U. S. 331, 35 L. ed. 177).
   Ala. Snow v. Carr, 61 Ala. 363, 32 Am. Rep. 3; Watkins v. Durand, 1 Port. 251; Durand v. Thouron & Co. 1 Port. 237.
   Ill. Fish v. Seeberger, 154 Ill. 30, 39 N. E. 982.
   Wis. Johnston v. Charles Abresch Co., 123 Wis. 130, 101 N. W. 395, 68 L. R. A. 934; Strohn v. Hartford F. Ins. Co., 33 Wis. 648.
2. Home Ins. Co. v. Warehouse Co., 93 U. S. 527, 23 L. ed. 868.
3. Lord Chief Justice Campbell in Waters v. Assurance Co., 5 E. & B. 870, 85 E. C. L. 868.
4. *Fed.* Ct. Mutual Life Ins. Co. v. Luchs, 108 N. W. 498, 27 L. ed. 800.
   Ala. Watkins v. Durand, 1 Port. 251.
   Mass. Cobb v. Ins. Co. 6 Gray 192.
   Mo. Platho v. Ins. Co., 38 Mo. 248.
   Neb. Bradley v. Brown, 78 Neb. 836, 112 N. W. 331, 13 L. R. A. (N. S.) 152, the court saying:
   "where an agent in the possession of personal property insures it against fire, the money due upon the policy after the loss belongs to his principal, who may recover it directly from the insurance company."
5. Chinese Maritime Customs v. American-Oriental Banking Corporation, *ante*.